SOUTHERN DISTRICT OF MISSISSIPPI
FILED
JUL 18 2011
J T NOBLIN, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO.** 5:11CV106 DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT and DR. ELIZABETH SWINFORD, in her Individual and Official capacities **DEFENDANTS**

COMPLAINT
(Jury Trial Demanded)

COMES NOW, Plaintiff Celia Gumbs-Gray, by and through her attorney, Lisa M. Ross, and files this her Complaint against the Defendants, as follows:

JURISDICTION AND VENUE

1. The defendants in this action deprived Celia Gumbs-Gray of various constitutional rights including but not limited to protected due process of law, procedural and substantive. This lawsuit is authorized and instituted pursuant to 42 U.S.C. § 1983, and the Fourteenth Amendment of the United States Constitution. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1331. Plaintiff seeks declaratory relief pursuant to 28 U.S.C. § 2202.

2. Venue is proper pursuant to 28 U.S.C. § 1391(b). A substantial part of the events or omissions giving rise to these claims acts complained of by Plaintiff occurred in Vicksburg, Mississippi.

PARTIES

3. Plaintiff Celia Gumbs-Gray is an adult African American resident citizen of Warren County, Mississippi.

4. Defendant, Dr. Elizabeth Swinford is the Superintendent of the Vicksburg Warren County School District. Defendant Dr. Elizabeth Swinford may be served with process of this Court by serving a copy of the Summons and Complaint upon her at 1500 Mission 66, Vicksburg, MS 39180. Dr. Elizabeth Swinford is being sued in her individual and official capacities.

5. Defendant, Vicksburg Warren County School District, is a public school district. The Vicksburg Warren County School District may be served with process of this Court by serving a copy of the Summons and Complaint upon its Superintendent, Dr. Elizabeth Swinford at 1500 Mission 66, Vicksburg, MS 39181. At all times mentioned herein, Defendant, Vicksburg Warren County Public School District was and is a school district in Mississippi with its principal place of business in Vicksburg, Mississippi.

STATEMENT OF FACTS

6. Celia Gumbs-Gray was hired by the Vicksburg Warren County School District in August, 2004 to work as a licensed teacher. (*See*, Exhibit A, a copy of Gumbs-Gray's contract for the 2004-2005 school year). Every school year, except for 2011-2012, the school district has issued Gumbs-Gray a new contract to work as a licensed teacher. (*See*, Exhibit B, a copy of Gumbs-Gray's contracts with the school district for 2006-2011).

7. On or about August 20, 2009, Celia Gumbs-Gray was attacked by a student. Gumbs-Gray sustained severe back injuries but was able to return to work. On August

17, 2010, Gumbs-Gray had to undergo surgery and was not released to return to work until June 6, 2011.

8. While Gumbs-Gray was recuperating from her surgery, she was not informed by the Vicksburg Warren County School District that she was being terminated because of her absence from work to attend to a work related injury. The Vicksburg Warren County School District did not notify Gumbs-Gray that her contract would be non-renewed.

In Mississippi, certified teachers who have been employed by a school district for at least two years, are entitled to notice and a hearing before they can be suspended or terminated and/or their contract can be non-renewal. The school district did not give Gumbs-Gray notice of a suspension, termination and/or non-renewal.

9. In June 2011 after Gumbs-Gray's physician released her to return to work, she contacted school officials and was told that she should submit a resume and letter of intent in order to be considered for employment. School officials failed to pay Gumbs-Gray's salary for the months remaining on her contract after she was released from the doctor's care. School officials subsequently informed the school district's insurance carrier that Gumbs-Gray voluntarily ended her employment. (A copy of the State School Employees' Health Insurance Plan Continuation Coverage Election Notice is attached hereto as Exhibit C).

10. At all times material to this Complaint, the individual officers, directors, supervisors, managers, employees and/or agents mentioned herein, acted within the scope of their duties as officers, directors, supervisors, managers, employees and/or agents of Defendant Vicksburg Warren County School District and under the color of state law.

CAUSE OF ACTIONS

DUE PROCESS

11. The Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

12. Plaintiff contends that she had a clearly established right to a due process hearing prior to being removed from her teaching position.

13. Upon information and belief, Vicksburg Warren County School District and Dr. Elizabeth Swinford knew or should have known that Celia Gumbs-Gray was entitled to a due process hearing prior to being removed from her teaching position.

14. As a proximate consequence of the actions of Defendants Vicksburg Warren County School District and Dr. Elizabeth Swinford, Plaintiff Celia Gumbs-Gray was unlawfully denied her right to a due process hearing prior to being removed from her teaching position.

BREACH OF CONTRACT

15. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

16. Plaintiff contends Defendant Dr. Elizabeth Swinford and others used their apparent authority to cause Celia Gumbs-Gray's contract as teacher to be unlawfully breached.

17. Upon information and belief, Defendant Vicksburg Warren County School District knew or should have known that Defendant Dr. Elizabeth Swinford and

Vicksburg Warren County School District were breaching Celia Gumbs-Gray's contract and that Celia Gumbs-Gray was entitled to remain in her position.

RELIEF

18. Plaintiff requests that the Court issue the following relief:

a. Enter declaratory relief declaring that Defendants enjoining the defendants from violating Celia Gumbs-Gray's constitutionally protected rights.

b. Award Plaintiff Celia Gumbs-Gray a contract for the 2011-2012 school year for intentional violations of her constitutionally protected rights in an amount to be determined by a jury of her peers.

c. Award Celia Gumbs-Gray attorney fees, costs and expenses of litigation and;

d. Award such other relief to which Celia Gumbs-Gray may be entitled.

WHEREFORE PREMISES CONSIDERED, Plaintiff Celia Gumbs-Gray demands judgment against Defendants Dr. Elizabeth Swinford and Vicksburg County School District in an amount exceeding the jurisdictional requirements of this Court, all together with the costs and disbursement action, including attorneys' fees, plus interest, and for any other relief which this Court deems just and proper.

RESPECTFULLY SUBMITTED this, the 18th day of July, 2011.

CELIA GUMBS-GRAY
By: Lisa M. Ross
Lisa M. Ross, Esq. (MSB#9755)
P.O. Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 981-7917 (facsimile)

Attorney for Plaintiff

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

5:11cv106 DCB-JMR

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
CELIA L. GUMBS-GRAY

(b) County of Residence of First Listed Plaintiff WARREN
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)
Lisa M. Ross, Esq., PO Box 11264, Jackson, MS 39283
(601) 981-7900

DEFENDANTS
VICKSBURG WARREN SCHOOL DISTRICT AND DR. ELIZABETH SWINFORD

County of Residence of First Listed Defendant WARREN
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
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BY ______ DEPUTY

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☒ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☒ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT

- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY

- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY

- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY

- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY

- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS

- ☐ 441 Voting
- ☒ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS

- ☐ 510 Motions to Vacate Sentence
- Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY

- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR

- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION

- ☐ 462 Naturalization Application
- ☐ 463 Habeas Corpus - Alien Detainee
- ☐ 465 Other Immigration Actions

BANKRUPTCY

- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS

- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY

- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS

- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES

- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
42 U.S.C. Section 1983
Brief description of cause:
Unlawful denial of right to due process hearing.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: ☑ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):
JUDGE ______ DOCKET NUMBER ______

DATE 7/18/11
SIGNATURE OF ATTORNEY OF RECORD Lisa M. Ross

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

34643010862

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by **GUMBS-GRAY, CELIA, 580-06-3048,** (employee) and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year **2004-2005** and shall hold the position of licensed teacher.

That the employee will be employed for **187 days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/02/04 and ending on 05/20/05**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$35,315.00,** which shall be paid in **12** equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price

Celia L. Gray
Employee

Superintendent

EXHIBIT
A

August 2, 2004
Date

July 30, 2004
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS-, 580-06-3048** (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year **2006-2007** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/01/2006 and ending on 05/25/2007**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$38440.00** which shall be paid in **twelve** equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 15, 2006
Date

Celia L. Gumbs-Gray
Employee

5/22/06
Date

EXHIBIT
B

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS-, 580-06-3048** (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year **2007-2008** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/01/2007 and ending on 05/23/2008**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$40030.00** which shall be paid in **twelve** equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 28, 2007
Date

Celia L. Gumbs-Gray
Employee

May 17 2007
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS-, 580-06-3048** (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) **2008-2009** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/01/2008 and ending on 06/01/2009**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$40525.00,** which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 12, 2008
Date

Celia L. Gumbs-Gray
Employee

May 16, 2008
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS-, 580-06-3048** (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) **2009-2010** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/03/2009 and ending on 06/01/2010**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$41020.00,** which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 18, 2009
Date

Celia L. Gumbs-Gray
Employee

5/25/09
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS-, 580-06-3048** (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) **2010-2011** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/02/2010 and ending on 05/24/2011**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$41515.00**, which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

Date

Celia L. Gumbs-Gray
Employee

6/01/10
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

HealW (Rev.4/10)

State and School Employees' Health Insurance Plan
Continuation Coverage Election Notice

To: Celia Gumbs Gray
Name of Employee or Qualified Beneficiary(ies)

July 11, 2011
Date Notified

This notice contains important information about your right to continue your health care coverage in the State and School Employees' Health Insurance Plan (Plan). Please read the information contained in this notice very carefully.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act (2010 DOD Act) on December 19, 2009 and the Temporary Extension Act of 2010 (TEA) on March 2, 2010, reduces the COBRA premium in some cases. On April 15, 2010, the President signed into law an extension of unemployment benefits and COBRA premium assistance. You are receiving this election notice because you experienced a loss of coverage that occurred during the period that begins with September 1, 2008 and ends with May 31, 2010 and you may be eligible for the temporary premium reduction for up to 15 months. To help determine whether you can get the ARRA premium reduction, you should read this notice and the attached documents carefully. In particular, reference the "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" with details regarding eligibility, restrictions, and obligations and the "Application for Treatment as an Assistance Eligible Individual." **If you believe you meet the criteria for the premium reduction, complete the "Application for Treatment as an Assistance Eligible Individual" and return it with your completed Election Form.**

To elect COBRA continuation coverage, follow the instructions on the following pages to complete the enclosed Election Form and submit it to Blue Cross & Blue Shield of Mississippi.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on July 31, 2011 due to:

- ☒ End of employment
  - ☐ Involuntary ☒ Voluntary
- ☐ Divorce or legal separation
- ☐ Death of employee
- ☐ Entitlement to Medicare
- ☐ Reduction in hours of employment
- ☐ Loss of dependent child status

If you believe you meet the criteria for the premium reduction, complete the "Request for Treatment as an Assistance Eligible Individual" and return it along with this page and your completed Election Form.

Each person ("qualified beneficiary") in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to 18 months:

- ☒ Employee or former employee
- ☐ Spouse or former spouse
- ☐ Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
- ☐ Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on August 1, 2011 and can last until February 28, 2012. This Election Form must be completed and returned by mail. It must be post-marked no later than September 8, 2011.

EXHIBIT
C

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA L. GUMBS-GRAY

Plaintiff

v.

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

Defendant

Civil Action No. 5:11 cv 106 DCB-JMR

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*
VICKSBURG WARREN COUNTY SCHOOL DISTRICT
C/O DR. ELIZABETH SWINFORD, SUPERINTENDENT
1500 MISSION 66
VICKSBURG, MS 39180

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Lisa M. Ross, Esq., Post Office Box 11264, Jackson, MS 39283-1264

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

J. T. NOBLIN

CLERK OF COURT

Date: JUL 18 2011

L. Smith
Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA L. GUMBS-GRAY

Plaintiff

v.

VICKSBURG WARREN SCHOOL DISTRICT AND DR. ELIZABETH SWINFORD

Defendant

Civil Action No. 5:11CV106 DCB-JMR

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DR. ELIZABETH SWINFORD, SUPERINTENDENT
VICKSBURG WARREN COUNTY SCHOOL DISTRICT
1500 MISSION 66
VICKSBURG, MS 39180

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Lisa M. Ross, Esq., Post Office Box 11264, Jackson, MS 39283-1264

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

J. T. NOBLIN

CLERK OF COURT

Date: JUL 18 2011

J. Smith

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA L. GUMBS-GRAY

Plaintiff

v.

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

Defendant

Civil Action No. 5:11 CV 106 DCB-JMR

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* VICKSBURG WARREN COUNTY SCHOOL DISTRICT
C/O DR. ELIZABETH SWINFORD, SUPERINTENDENT
1500 MISSION 66
VICKSBURG, MS 39180

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Lisa M. Ross, Esq., Post Office Box 11264, Jackson, MS 39283-1264

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

J. T. NOBLIN

CLERK OF COURT

Date: JUL 18 2011

I. Smith

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* ______________________
was received by me on *(date)* ______________ .

☐ I personally served the summons on the individual at *(place)* ______________________
______________________ on *(date)* ______________ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* ______________
______________________ , a person of suitable age and discretion who resides there,
on *(date)* ______________ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* ______________________ , who is
designated by law to accept service of process on behalf of *(name of organization)* ______________
______________________ on *(date)* ______________ ; or

☐ I returned the summons unexecuted because ______________________ ; or

☐ Other *(specify)*:

My fees are $ ________ for travel and $ ________ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: ______________

____
Server's signature

____
Printed name and title

____
Server's address

SERVICE ON CORPORATION
I have, this day, executed the within writ on Vicksburg Warren County School Dist.
the within named defendant, by personally delivering a true copy of
same to Elizabeth Swinford
who is Agent of said Corporation.
This the 29 day of July ~~200~~ 2011
W. MARTIN PACE, JR., Sheriff
BY: Kenneth R Ballard D.S.

Additional information regarding attempted service, etc:

RECEIVED PROCESS
JUL 28 2011
WARREN CO. SHERIFF DEPT.
BY: M. Yates

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA L. GUMBS-GRAY

Plaintiff

v.

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

Defendant

Civil Action No. 5:11cv106 DCB-JMR

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* DR. ELIZABETH SWINFORD, SUPERINTENDENT
VICKSBURG WARREN COUNTY SCHOOL DISTRICT
1500 MISSION 66
VICKSBURG, MS 39180

3024 Dewi Vick

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Lisa M. Ross, Esq., Post Office Box 11264, Jackson, MS 39283-1264

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

J. T. NOBLIN

CLERK OF COURT

Date: JUL 18 2011

I. Smith

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 12/09) Summons in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* ____________________

was received by me on *(date)* ____________________ .

☒ I personally served the summons on the individual at *(place)* 302 Newit Vick DR DR. ELizaBeth Swinford on *(date)* 07-29-11 ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* ____________________ , a person of suitable age and discretion who resides there, on *(date)* ____________________ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* ____________________ , who is designated by law to accept service of process on behalf of *(name of organization)* ____________________ on *(date)* ____________________ ; or

☐ I returned the summons unexecuted because ____________________ ; or

☐ Other *(specify)*:

My fees are $ ________ for travel and $ ________ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: ____________________

Kenneth R Ballard
Server's signature

KENNETH R. BALLARD
Printed name and title

1000 GROVE St Vicksburg Ms.
Server's address

Additional information regarding attempted service, etc:

RECEIVED PROCESS
36.00 paid
JUL 28 2011
WARREN CO. SHERIFF DEPT.
BY: M. Yates

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT, VICKSBURG WARREN SCHOOL DISTRICT AND DR. ELIZABETH SWINFORD, IN HER INDIVIDUAL AND OFFICIAL CAPACITIES

COME NOW Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, in her Individual and Official Capacities, ("Defendants") and files this Answer and Affirmative Defenses to the Complaint of Celia L. Gumbs-Gray, and would show the following, to-wit:

FIRST DEFENSE

This Court lacks jurisdiction over this matter and the case should be dismissed pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure.

SECOND DEFENSE

The Complaint fails to state a claim upon which relief can be granted and the case should be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

THIRD DEFENSE

Plaintiff has failed to mitigate her damages, if any, and thereby her claims should be barred.

FOURTH DEFENSE

Plaintiff's damages, if any, are the result of Plaintiff's own acts and/or omissions and therefore, Defendants cannot be liable or responsible for any such damages.

FIFTH DEFENSE

Alternatively, Defendants plead comparative and contributory negligence on the part of the Plaintiff as the cause of her damages, if any.

SIXTH DEFENSE

Defendants assert assumption of risk on the part of Plaintiff.

SEVENTH DEFENSE

Defendants are entitled to an offset for any payments or benefits provided to Plaintiff which were not required.

ANSWER

AND NOW, without waiving any of the above and foregoing defenses, Defendants respond to the numbered allegations of Plaintiff's Complaint as follows, to-wit:

1. The allegations of Paragraph 1 are denied as Plaintiff was not deprived of any constitutional rights by Defendant, and further denied as conclusions of law.

2. The allegations of Paragraph 2 are denied as conclusions of law.

3. The allegations of Paragraph 3 are admitted upon information and belief.

4. With respect to the allegations of Paragraph 4, it is admitted that Dr. Elizabeth Swinford is Superintendent of the Vicksburg Warren School District (mistakenly alleged throughout the complaint as "Vicksburg Warren County School District"), and Dr. Swinford (in her official capacity) may be served with process at 1500 Mission 66, Vicksburg, MS, 39180. The remaining allegations of Paragraph 4 are denied.

5. The allegations of Paragraph 5 are admitted except as to the proper name of the Defendant School District.

6. With respect to the allegations of Paragraph 6, it is admitted that Plaintiff was

hired as a licensed teacher, and it is admitted Plaintiff was issued a contract to work as a licensed teacher for the 2006-2011 school years. The remaining allegations of Paragraph 6 are denied.

7. The allegations of Paragraph 7 are denied.

8. The allegations of Paragraph 8 are denied.

9. The allegations of Paragraph 9 are denied.

10. The allegations of Paragraph 10 are denied as conclusions of law.

11. The allegations of Paragraph 11 do not appear to require an answer. Out of an abundance of caution, Defendants deny the allegations of Paragraph 11.

12. The allegations of Paragraph 12 are denied as stated.

13. The allegations of Paragraph 13 are denied.

14. The allegations of Paragraph 14 are denied.

15. The allegations of Paragraph 15 do not appear to require an answer. Out of an abundance of caution, Defendants deny the allegations of Paragraph 15.

16. The allegations of Paragraph 16 are denied.

17. The allegations of Paragraph 17 are denied.

18a. The allegations of Paragraph 18a are denied.

18b. The allegations of Paragraph 18b are denied. Furthermore, Plaintiff is employed for the 2011-2012 school year by Defendants.

18c. The allegations of Paragraph 18c are denied.

18d. The allegations of Paragraph 18d are denied.

19. Defendants deny that Plaintiff is entitled to the relief requested in the paragraph of the Complaint beginning “WHEREFORE, PREMISES CONSIDERED” and deny all allegations and requests contained therein.

WHEREFORE PREMISES CONSIDERED, Defendants pray that this Answer and Affirmative Defenses be deemed good and sufficient and that after all due legal delays, Plaintiff's complaint be dismissed with costs taxed to Plaintiff. Defendants further pray for all other equitable relief to which they are entitled.

This the 17th day of August, 2011.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

By:______________________________
W. BRIGGS HOPSON, III (MS Bar #9067)
LAUREN ROBERTS CAPPAERT (MS Bar #101923)

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street – Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114

CERTIFICATE OF SERVICE

I, W. Briggs Hopson, III, the undersigned attorney, do hereby certify that I have this sent by U.S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the 17th day of August, 2011.

____
W. BRIGGS HOPSON, III

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA GRUMBS -GRAY PLAINTIFF

VERSUS CIVIL ACTION NO. 5:11cv106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT, ET AL DEFENDANTS

RULE 16.1(A) INITIAL ORDER

The above captioned cause is set for a **TELEPHONIC CASE MANAGEMENT CONFERENCE (CMC)** on October 26, 2011 at 3:30 PM before:

Chief Magistrate Judge John M. Roper
2012 15th Street, Suite 870
Gulfport, MS 39501
(228) 563-1779
(228) 563-1789 (fax)
roper_chambers@mssd.uscourts.gov

Unless otherwise agreed, it shall be the responsibility of counsel for the plaintiff to set up the conference call at the scheduled time.

No later than twenty one (21) days prior to the CMC, counsel shall confer regarding all matters set forth in Local Rule 16.1(B)(1).

No later than fourteen (14) days after the attorney conference, seven (7) days prior to the CMC, counsel shall submit a proposed case management order (attached) to the judge only. This submission shall **not** be filed with the Clerk of Court. By the same deadline, counsel shall also submit a Confidential Memorandum (3 page maximum) setting forth a brief explanation of the case, and a candid appraisal of the respective positions, including possible settlement figures. Counsel will also furnish in their memorandum a good faith estimate of the expense of carrying the litigation through trial and the appellate process, if not settled, and will have discussed these costs with their respective clients. These memoranda are **not** to be exchanged and will be viewed only by the Court. Further, these memoranda shall **not** be filed with the Clerk of Court.

Upon receipt and examination of the proposed case management order and confidential memoranda, the Court will determine if the case management conference will remain telephonic, will be converted to an in-person conference, or a case management order will be entered based upon the submissions of the parties. If the parties consent to trial by Magistrate Judge, the attached consent form must be executed and submitted with the proposed case management order.

THE FAILURE OF ANY PARTY TO TIMELY SUBMIT THE PROPOSED CASE MANAGEMENT ORDER AND CONFIDENTIAL MEMORANDA SHALL REQUIRE ATTENDANCE IN PERSON BY ALL DEFAULTING COUNSEL AT THE CASE MANAGEMENT CONFERENCE. ALL ATTORNEYS OF RECORD FOR THE DEFAULTING PARTY SHALL BE REQUIRED TO ATTEND AND THE CONFERENCE SHALL NOT BE SUBJECT TO RESCHEDULING. SANCTIONS WILL BE IMPOSED AT THE CONFERENCE.

At the case management conference, the Court and the parties shall:

1. Identify the principal factual and legal issues in dispute;
2. Identify the alternative dispute resolution procedure which counsel intend to use, or report specifically why no such procedure would assist in the resolution of the case;
3. Indicate whether all parties consent to jurisdiction by a magistrate judge;
4. Review the parties' compliance with their disclosure obligations and consider whether to order additional disclosures;
5. Determine whether to order early filing of any motions that might significantly affect the scope of discovery or other aspects of the litigation, and provide for the staged resolution, or bifurcation of issues for trial consistent with 42(b) Fed.R.Civ.P.;
6. Determine the plan for at least the first stage of discovery; impose limitations on each discovery tool, time periods and other appropriate matters;
7. Discuss the timing for the Rule 16.1(C) settlement conference;
8. Discuss scheduling and set appropriate scheduling deadlines including dates for settlement conference, completion of discovery, motions, final pretrial conference and trial. The parties should be prepared to discuss prior conflicts with the trial date.
9. Verify that counsel are registered for electronic document filing and are familiar with the Administrative Procedures for Electronic Filing.

A case management order shall be entered by the Court within ten (10) days of the conference. The parties **shall not** complete the scheduling order (page 2) until the TCMC. The Uniform Local Rules, a case management order form and a case management time line are available on the court website at *www.mssd.uscourts.gov*.

UNITED STATES MAGISTRATE JUDGE

Date: October 5, 2011

s/John M. Roper, Sr.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

ENTRY OF APPEARANCE

COMES NOW, Lauren Roberts Cappaert of the law firm Teller, Hassell & Hopson, LLP, and enters her appearance as Associate Counsel for Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, and requests that copies of all pleadings and notices of all

hearings or other proceedings be sent to:

lcappaert@tellerlaw.com

Dated: October 20, 2011.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

BY: /s/ LAUREN ROBERTS CAPPAERT

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39183
Telephone: (601) 636-6565
Facsimile: (601) 631-0114

CERTIFICATE OF SERVICE

I, Lauren Roberts Cappaert, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: October 20, 2011.

/s/ Lauren Roberts Cappaert

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

ENTRY OF APPEARANCE

COMES NOW, Lauren Roberts Cappaert of the law firm Teller, Hassell & Hopson, LLP, and enters her appearance as Associate Counsel for Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, and requests that copies of all pleadings and notices of all

hearings or other proceedings be sent to:

lcappaert@tellerlaw.com

Dated: October 20, 2011.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

BY: /s/ LAUREN ROBERTS CAPPAERT

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39183
Telephone: (601) 636-6565
Facsimile: (601) 631-0114

CERTIFICATE OF SERVICE

I, Lauren Roberts Cappaert, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: October 20, 2011.

/s/ Lauren Roberts Cappaert

FORM 1 (ND/SD MISS. JUL. 2011)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

PLAINTIFF

CELIA L. GUMBS-GRAY

v.

CIVIL ACTION
NO. 5:11cv106DCBJMR

DEFENDANT

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

CASE MANAGEMENT ORDER

This Order, including all deadlines, has been established with the participation of all parties and can be modified only by order of the Court on a showing of good cause supported with affidavits, other evidentiary materials, or reference to portions of the record.

IT IS HEREBY ORDERED:

1. **ESTIMATED DAYS OF TRIAL:** 1-2

ESTIMATED TOTAL NUMBER OF WITNESSES: 13

EXPERT TESTIMONY EXPECTED: Yes **NO. OF EXPERTS:** 1-2

2. **ALTERNATIVE DISPUTE RESOLUTION [ADR].**

Alternative dispute resolution techniques appear helpful and will be used in this civil action as follows:

Formal mediation with Court

3. **CONSENT TO TRIAL BY UNITED STATES MAGISTRATE JUDGE.**

The parties do not consent to trial by a United States Magistrate Judge.

4. DISCLOSURE.

The following additional disclosure is needed and is hereby ordered:

Parties will fully disclose on or prior to 11/9/2011

5. MOTIONS; ISSUE BIFURCATION.

Staged resolution, or bifurcation of the issues for trial in accordance with FED. R. CIV. P. 42 (b) will assist in the prompt resolution of this action. Accordingly, the Court orders that:

Not Applicable

Early filing of the following motion(s) might significantly affect the scope of discovery or otherwise expedite the resolution of this action:

Not Applicable

6. DISCOVERY PROVISIONS AND LIMITATIONS.

A. Interrogatories are limited to 25 succinct questions.

B. Requests for Production and Requests for Admissions are limited to

25 succinct questions.

C. Depositions are limited to the parties, experts, and no more than

10 fact witness depositions per party without additional approval of the Court.

D. The parties have complied with the requirements of Local Rule 26(e)(2)(B) regarding discovery of electronically stored information and have concluded as follows [The parties MUST state whether or not there is ESI and, if so, how they propose to address it]:

Parties may return to the Court for any ESI plan and should only involve emails at this time.

E. The court imposes the following further discovery provisions or limitations:

☑ 1. Defendant may have a Fed. R. Civ. P. 35 (L.U.Civ.R. 35) medical examination of the plaintiff (within subpoena range of the court) by a physician who has not examined the plaintiff. The examination must be completed in time to comply with expert designation deadlines.

☑ 2. Pursuant to Rule 502(d) of the Federal Rules of Evidence, the attorney-client privilege and the work-product protections are not waived by any disclosure connected within this litigation pending before this Court. Further, the disclosures are not waived in any other federal or state proceeding.

☑ 3. Plaintiff must execute a waiver of the medical privilege.

☐ 4. Other:

Additional Provisions:

7. SCHEDULING DEADLINES

A. Trial. This action is set for JURY TRIAL beginning on: 9/24-10/12, 2012, at 9:00, a.m., in Natchez, Mississippi, before United States District Judge David C. Bramlette, III. THE ESTIMATED NUMBER OF DAYS FOR TRIAL IS 2. ANY CONFLICTS WITH THIS TRIAL DATE MUST BE SUBMITTED IN WRITING TO THE TRIAL JUDGE IMMEDIATELY UPON RECIEPT OF THIS CASE MANAGEMENT ORDER.

B. Pretrial. The pretrial conference is set on: 9/11-13, 2012, at 9:00, a.m., in Natchez, Mississippi, before United States Magistrate Judge John M. Roper.

C. Discovery. All discovery must be completed by: 6/1/2012.

D. Amendments. Motions for joinder of parties or amendments to the pleadings must be filed by: 11/28/2011.

E. Experts. The parties' experts must be designated by the following dates:

1. Plaintiff(s): 3/1/2012.

2. Defendant(s): 4/1/2012.

8. MOTIONS. All dispositive motions and *Daubert*-type motions challenging another party's expert must be filed by: 6/14/2012 .The deadline for motions *in limine* is fourteen days before the pretrial conference; the deadline for responses is seven days before the pretrial conference.

9. SETTLEMENT CONFERENCE.

A SETTLEMENT CONFERENCE is set on: 7/25/2012 , at 9:00 , a.m. in Natchez , Mississippi, before United States Magistrate Judge John M. Roper .

Seven (7) days before the settlement conference, the parties must submit via e-mail to the magistrate judge's chambers an updated CONFIDENTIAL SETTLEMENT MEMORANDUM. All parties are required to be present at the conference unless excused by the Court. If a party believes the scheduled settlement conference would not be productive and should be cancelled, the party is directed to inform the Court via e-mail of the grounds for their belief at least seven (7) days prior to the conference.

10. REPORT REGARDING ADR. On or before (7 days before FPTC) 9/4/2012 , the parties must report to the undersigned all ADR efforts they have undertaken to comply with the Local Rules or provide sufficient facts to support a finding of just cause for failure to comply. *See L.U.Civ.R.83.7(f)(3).*

SO ORDERED:

10/26/2011
DATE

s/John M. Roper
UNITED STATES MAGISTRATE JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

**VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD** **DEFENDANTS**

NOTICE OF SERVICE

TO: ALL COUNSEL OF RECORD

Notice is hereby given that Vicksburg Warren School District and Dr. Elizabeth Swinford have this day filed the following in the above-entitled action:

- Defendants' Initial Disclosures

The undersigned retains the original(s) of the above paper(s) as custodian thereof.

Respectfully submitted this the 8th day of November, 2011.

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

By: /s/ Lauren Roberts Cappaert
W. BRIGGS HOPSON, III (MSB #9067)
LAUREN ROBERTS CAPPAERT (MSB #101923)

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street – Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114

CERTIFICATE OF SERVICE

I, Lauren Roberts Cappaert, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: November 8, 2011.

/s/ Lauren Roberts Cappaert

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANTS**

MOTION TO COMPEL INITIAL DISCLOSURES OR, IN THE ALTERNATIVE, MOTION TO DISMISS

COME NOW Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, by and through counsel, and file this Motion to Compel Initial Disclosures or, in the Alternative, Motion to Dismiss pursuant to Federal Rule of Civil Procedure 37(a)(3)(A); and would show unto the court the following:

1. On or about November 8, 2011, Defendants served their initial disclosures pursuant to Federal Rule of Civil Procedure Rule 26(a) and Local Uniform Civil Rule 26 (a)(1) ("Initial Disclosures") to the Plaintiff.
2. To date, Plaintiff has not served her Initial Disclosures as required by Fed. R. Civ. Pro. 26(a) and L.U.Civ.R. 26(a)(1).
3. Defendants' attorneys have made numerous telephone calls and sent correspondence in unsuccessful attempts to confer in good faith with the party failing to make disclosure in an effort to obtain the disclosures without court action, as required by Federal Rule of Civil Procedure 37(a)(1).
4. Defendants request that Plaintiff be ordered to produce her Initial Disclosures within 10 days or that the Court dismiss with prejudice the Complaint filed against Defendants, as provided by Federal Rule of Civil Procedure 37(a)(2).
5. Defendants further request that the Court order Plaintiff to pay all expenses,

including attorney's fees, Defendants have incurred attempting to obtain the initial disclosures without court action and in making this Motion, as provided by Fed. R. Civ. Pro. 37(a)(5)(A).

6. The affidavit of Philip Schrader, is attached hereto as "Exhibit A," as required by L.U.Civ.R. 37(a).

WHEREFORE, PREMISES CONSIDERED, Defendants request that an order be entered compelling the Plaintiff to produce all Initial Disclosures required by the rules within 10 days from the date of the Court's order; or in the alternative, that the Complaint against Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, be dismissed with prejudice. Defendants also request sanctions in the amount of $750.00 for costs and attorney's fees incurred by the Defendants to submit and process this motion. Defendants request such other relief as this Court deems appropriate under the circumstances.

Dated: March 26, 2012.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY: */s/ Philip Schrader*
W. BRIGGS HOPSON, III
PHILIP SCHRADER

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street - Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114

CERTIFICATE OF SERVICE

I, Philip Schrader, being first duly sworn, do hereby certify that the above is true and correct, and I have this day sent by U. S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the 26th day of March, 2012.

/s/ Philip Schrader
PHILIP SCHRADER

AFFIDAVIT OF PHILIP SCHRADER

STATE OF MISSISSIPPI
COUNTY OF WARREN

PERSONALLY appeared before me, the undersigned authority in and for said county and state, PHILIP SCHRADER who is personally known to me or who has produced satisfactory identification and, having been being first sworn by the undersigned Notary Public, deposes and states as follows:

1. I, PHILIP SCHRADER, am an adult resident citizen of Warren County, Mississippi and make this affidavit based upon my own personal knowledge of all matters set forth herein.

2. I am an attorney employed by Teller, Hassell & Hopson, LLP and represent the Vicksburg Warren School District and Dr. Elizabeth Swinford in Civil Action No. 5:11CV106DCB-JMR in the United States District Court for the Southern District of Mississippi.

3. In a good-faith attempt to confer with opposing counsel to resolve a failure to make the required initial disclosures and obtain the disclosures without court action, I prepared and caused the attached correspondence to be served upon Plaintiff's counsel, Lisa M. Ross. Said correspondence was served on February 20, 2012 via facsimile, electronic mail and Unites States mail.

4. Over 30 days have passed since the correspondence was served and I have not received any response to my requests. Opposing counsel has failed to cooperate in an attempt to resolve this discovery dispute and has failed to cooperate in preparing the Good Faith Certificate.

5. I have expended considerable time and effort preparing correspondence, as well as drafting and filing the appropriate pleadings, Good Faith Certificate, and an affidavit in effort to obtain the initial disclosures required by Fed.R.Civ. Pro 26(a)(1)(A). Therefore, I request that the Court sanction the Plaintiff, Celia L. Gumbs-Gray and her counsel, in the amount of $750 for failing to provide Plaintiff's initial disclosures as required by the Federal Rules of Civil Procedure.

FURTHER, Affiant sayeth not.

Philip Schrader
PHILIP SCHRADER

SWORN TO AND SUBSCRIBED before me on this, the 26th day of March, 2012.

Jerri P. Mocknick
NOTARY PUBLIC

My Commission Expires:
May 11, 2013

JERRI P. MOCKNICK
ID No 34404
NOTARY PUBLIC
Comm Expires May 11, 2013

EXHIBIT
"A"

FILE COPY

LAW OFFICES OF
TELLER, HASSELL & HOPSON, LLP
www.tellerlaw.com
Writer's e-mail: pschrader@tellerlaw.com

LANDMAN TELLER, JR.
DOUGLAS E. HASSELL
B. BLAKE TELLER
W. BRIGGS HOPSON, III*
G. PHILIP SCHRADER, IV
LAUREN ROBERTS CAPPAERT

LANDMAN TELLER (1907-1995)

*ALSO ADMITTED IN LOUISIANA

1201 Cherry Street - Nogales Building
Vicksburg, MS 39183-2919
Ph. (601) 636-6565
Fax: (601) 631-0114

February 20, 2012

Lisa M. Ross, Esq.
Attorney at Law
Post Office Box 11264
Jackson, MS 39283-1264

Via Email: lross@lmrossatlaw.com
and facsimile: (601) 981-7917

Re: Celia L. Gumbs-Gray v. Vicksburg Warren School District and Dr. Elizabeth Swinford; Action No. 5:11CV106DCB-JMR

Dear Lisa:

This letter will serve as our good faith effort to resolve a discovery dispute as required by the Federal Rules of Civil Procedure. Our records indicate that the Defendants' Initial Disclosures in this matter were served back in November 2011. The Plaintiff's Initial Disclosures are now past due.

Please provide Plaintiff's Initial Disclosures on or before Thursday, March 1, 2012. Otherwise, we will have no choice but to file and pursue the enclosed Motion to Compel. I have attached a Good Faith Certificate for your review and execution that will be attached to the Motion to Compel Initial Disclosures. Please mark where appropriate and return the Affidavit to me in the self-addressed stamped envelope, also included for your convenience.

I appreciate your attention in this matter, and look forward to hearing from you.

Sincerely,

TELLER, HASSELL & HOPSON, LLP

Philip Schrader

PHILIP SCHRADER

GPS/jpm
Enclosures
00202778.WPD

cc: Dr. Elizabeth Swinford

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANTS**

MOTION TO COMPEL INITIAL DISCLOSURES OR, ALTERNATIVELY, MOTION TO DISMISS

COMES NOW Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, by and through their counsel, and files this Motion to Compel Initial Disclosures or, Alternatively, Motion to Dismiss pursuant to Federal Rule of Civil Procedure 37(a)(3)(A) and would show unto the court the following:

1. On or about November 8, 2011, Defendants served their disclosures pursuant to Federal Rule of Civil Procedure Rule 26(a) and Mississippi Rule of Uniform District Court Rule 26 (a)(1) ("Initial Disclosures") to the Plaintiff. A copy of the Initial Disclosures are attached as Exhibit "A" and incorporated herein by reference.

2. To date, Plaintiff has not served her Initial Disclosures as required by Fed. R. Civ. Pro. 26(a) and L.U. Civ. R. 26(a)(1).

3. Defendants have made numerous telephone calls and sent correspondence (see attached Exhibit "B") requesting same, all to no avail. Defendants "attempted . . to confer in good faith with the party failing to make disclosure in an effort to obtain it without court action.

4. Defendants request that Plaintiff be ordered to produce her Initial Disclosures within 10 days or that the Court dismiss with prejudice the Complaint filed

against Defendants.

5. Defendants further request that the Court order Plaintiff to pay as ___________ the Defendants' reasonable expenses, including attorney's fees, incurred in making this Motion, by Fed. R. Civ. Pro. 37(a)(5)(A).

WHEREFORE, PREMISES CONSIDERED, Defendants move that an order be entered immediately compelling the Plaintiff to produce all Initial Disclosures required by the rules within 10 days from the date of the Court's order, or otherwise that the Complaint against Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, be dismissed with prejudice. Defendants also request sanctions in the form of costs and attorney's fees incurred by the Defendants to submit and process this motion. Defendants request such other relief as this Court deems appropriate under the circumstances.

Dated: February ___, 2012.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY:_______________________________
W. BRIGGS HOPSON, III

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street - Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114

CERTIFICATE OF SERVICE

I, W. Briggs Hopson, III, being first duly sworn, do hereby certify that the above is true and correct, and I have this day sent by U. S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the _____ day of February, 2012.

W. BRIGGS HOPSON, III

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANTS**

GOOD FAITH CERTIFICATE

All counsel certify that they have conferred in good faith to resolve the issues in question and that it is necessary to file the following motion:

Counsel further certify that:

√ as appropriate:

___ 1. The motion is unopposed by all parties.

___ 2. The motion is unopposed by Plaintiff's counsel.

___ 3. The motion is opposed by Plaintiff's counsel.

___ 4. The parties agree that replies and rebuttals to the motion will be submitted to the magistrate judge in accordance with the time limitations stated in L.U.Civ.P. 7(b)(4).

This the ___ day of __________ 2012.

____
Signature of Plaintiff's Attorney

Lisa M. Ross, Esq. (MSB # 9755)
Typed Name and Bar Number

____
Signature of Defendant's Attorney

G. Philip Schrader, IV (MSB # 102201
Typed Name and Bar Number

Philip Schrader
TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39180
(*phone*) (601) 636-6565
(*fax*) (601) 631-0114

Philip Schrader

From: Jerri Mocknick
Sent: Monday, February 20, 2012 10:16 AM
To: lross@lmrossatlaw.com
Cc: Philip Schrader; W. Briggs Hopson
Subject: VWSD et al adv Celia Gumbs-Gray; Action No. 5:11CV106DCB-JMR
Attachments: Scan of Lisa Ross letter with enclosures (00202803).PDF

Ms. Ross:

Please see attachment from Philip Schrader related to the above subject matter which was previously faxed this morning. A hard copy will follow in the mail.

Thank you,

Jerri P. Mocknick
Teller, Hassell & Hopson, LLP
Nogales Building
1201 Cherry Street
Vicksburg, MS 39183-2919
Phone: (601) 636-6565
Fax: (601) 631-0114
jmocknick@tellerlaw.com

****
*** FAX TX REPORT ***
****

TRANSMISSION OK

JOB NO.	2035
DESTINATION ADDRESS	6019817917p21
PSWD/SUBADDRESS	
DESTINATION ID	
ST. TIME	02/20 10:59
USAGE T	03' 06
PGS.	5
RESULT	OK

LAW OFFICES OF
TELLER, HASSELL & HOPSON, LLP
www.tellerlaw.com
Writer's e-mail: pschrader@tellerlaw.com

LANDMAN TELLER, JR.
DOUGLAS E. HASSELL
B. BLAKE TELLER
W. BRIGGS HOPSON, III*
G. PHILIP SCHRADER, IV
LAUREN ROBERTS CAPPAERT

LANDMAN TELLER (1907-1995)

*ALSO ADMITTED IN LOUISIANA

1201 Cherry Street - Nogales Building
Vicksburg, MS 39183-2919
Ph. (601) 636-6565
Fax: (601) 631-0114

February 20, 2012

Lisa M. Ross, Esq.
Attorney at Law
Post Office Box 11264
Jackson, MS 39283-1264

Via Email: lross@lmrossatlaw.com
and facsimile: (601) 981-7917

Re: Celia L. Gumbs-Gray v. Vicksburg Warren School District and
Dr. Elizabeth Swinford; Action No. 5:11CV106DCB-JMR

Dear Lisa:

This letter will serve as our good faith effort to resolve a discovery dispute as required by the Federal Rules of Civil Procedure. Our records indicate that the Defendants' Initial Disclosures in this matter were served back in November 2011. The Plaintiff's Initial Disclosures are now past due.

Please provide Plaintiff's Initial Disclosures on or before Thursday, March 1, 2012. Otherwise, we will have no choice but to file and pursue the enclosed Motion to Compel. I have attached a Good Faith Certificate for your review and execution that will be attached to the Motion to Compel Initial Disclosures. Please mark where appropriate and return the Affidavit to me in the self-addressed stamped envelope, also included for your convenience.

I appreciate your attention in this matter, and look forward to hearing from you.

Sincerely,

TELLER, HASSELL & HOPSON, LLP

Return Address: LAW OFFICES OF
TELLER
HASSELL & HOPSON
LLP
Nogales Building - 1201 Cherry
Street
Vicksburg, MS 39183-2919

Delivery Address: Lisa M Ross Esq
Attorney At Law
PO Box 11264
Jackson, MS 39283-1264

Cost Code: Gail Parker

Print Date: February 20, 2012 - 10:08:33 AM

Mail Date: February 21, 2012

User: mwchaney

Weight: 0 lbs 1 oz

Refund Type: E-refund

Printed Msg:

Class/Service: First Class ® $0.45

Special Services:

Insurance: N/A

TOTAL COST: $0.45

Tracking:

Gail off- Sitting up front

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANTS**

MOTION TO COMPEL INITIAL DISCLOSURES OR, IN THE ALTERNATIVE, MOTION TO DISMISS

COME NOW Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, by and through counsel, and file this Motion to Compel Initial Disclosures or, in the Alternative, Motion to Dismiss pursuant to Federal Rule of Civil Procedure 37(a)(3)(A); and would show unto the court the following:

1. On or about November 8, 2011, Defendants served their initial disclosures pursuant to Federal Rule of Civil Procedure Rule 26(a) and Local Uniform Civil Rule 26 (a)(1) ("Initial Disclosures") to the Plaintiff.
2. To date, Plaintiff has not served her Initial Disclosures as required by Fed. R. Civ. Pro. 26(a) and L.U.Civ.R. 26(a)(1).
3. Defendants' attorneys have made numerous telephone calls and sent correspondence in unsuccessful attempts to confer in good faith with the party failing to make disclosure in an effort to obtain the disclosures without court action, as required by Federal Rule of Civil Procedure 37(a)(1).
4. Defendants request that Plaintiff be ordered to produce her Initial Disclosures within 10 days or that the Court dismiss with prejudice the Complaint filed against Defendants, as provided by Federal Rule of Civil Procedure 37(a)(2).
5. Defendants further request that the Court order Plaintiff to pay all expenses,

including attorney's fees, Defendants have incurred attempting to obtain the initial disclosures without court action and in making this Motion, as provided by Fed. R. Civ. Pro. 37(a)(5)(A).

6. The affidavit of Philip Schrader, is attached hereto as "Exhibit A," as required by L.U.Civ.R. 37(a).

WHEREFORE, PREMISES CONSIDERED, Defendants request that an order be entered compelling the Plaintiff to produce all Initial Disclosures required by the rules within 10 days from the date of the Court's order; or in the alternative, that the Complaint against Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, be dismissed with prejudice. Defendants also request sanctions in the amount of $750.00 for costs and attorney's fees incurred by the Defendants to submit and process this motion. Defendants request such other relief as this Court deems appropriate under the circumstances.

Dated: March 26, 2012.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY: */s/ Philip Schrader*
W. BRIGGS HOPSON, III
PHILIP SCHRADER

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street - Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114

CERTIFICATE OF SERVICE

I, Philip Schrader, being first duly sworn, do hereby certify that the above is true and correct, and I have this day sent by U. S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the 26th day of March, 2012.

/s/ Philip Schrader
PHILIP SCHRADER

AFFIDAVIT OF PHILIP SCHRADER

STATE OF MISSISSIPPI
COUNTY OF WARREN

PERSONALLY appeared before me, the undersigned authority in and for said county and state, PHILIP SCHRADER who is personally known to me or who has produced satisfactory identification and, having been being first sworn by the undersigned Notary Public, deposes and states as follows:

1. I, PHILIP SCHRADER, am an adult resident citizen of Warren County, Mississippi and make this affidavit based upon my own personal knowledge of all matters set forth herein.

2. I am an attorney employed by Teller, Hassell & Hopson, LLP and represent the Vicksburg Warren School District and Dr. Elizabeth Swinford in Civil Action No. 5:11CV106DCB-JMR in the United States District Court for the Southern District of Mississippi.

3. In a good-faith attempt to confer with opposing counsel to resolve a failure to make the required initial disclosures and obtain the disclosures without court action, I prepared and caused the attached correspondence to be served upon Plaintiff's counsel, Lisa M. Ross. Said correspondence was served on February 20, 2012 via facsimile, electronic mail and Unites States mail.

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5. I have expended considerable time and effort preparing correspondence, as well as drafting and filing the appropriate pleadings, Good Faith Certificate, and an affidavit in effort to obtain the initial disclosures required by Fed.R.Civ. Pro 26(a)(1)(A). Therefore, I request that the Court sanction the Plaintiff, Celia L. Gumbs-Gray and her counsel, in the amount of $750 for failing to provide Plaintiff's initial disclosures as required by the Federal Rules of Civil Procedure.

FURTHER, Affiant sayeth not.

Philip Schrader
PHILIP SCHRADER

SWORN TO AND SUBSCRIBED before me on this, the 26th day of March, 2012.

Jerri P. Mocknick
NOTARY PUBLIC

My Commission Expires:
May 11, 2013

JERRI P. MOCKNICK
ID No 34404
NOTARY PUBLIC
Comm Expires
May 11, 2013

EXHIBIT
"A"

FILE COPY

LAW OFFICES OF
TELLER, HASSELL & HOPSON, LLP
www.tellerlaw.com
Writer's e-mail: pschrader@tellerlaw.com

LANDMAN TELLER, JR.
DOUGLAS E. HASSELL
B. BLAKE TELLER
W. BRIGGS HOPSON, III*
G. PHILIP SCHRADER, IV
LAUREN ROBERTS CAPPAERT

LANDMAN TELLER (1907-1995)

*ALSO ADMITTED IN LOUISIANA

1201 Cherry Street - Nogales Building
Vicksburg, MS 39183-2919
Ph. (601) 636-6565
Fax: (601) 631-0114

February 20, 2012

Lisa M. Ross, Esq.
Attorney at Law
Post Office Box 11264
Jackson, MS 39283-1264

Via Email: lross@lmrossatlaw.com
and facsimile: (601) 981-7917

Re: Celia L. Gumbs-Gray v. Vicksburg Warren School District and
Dr. Elizabeth Swinford; Action No. 5:11CV106DCB-JMR

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I appreciate your attention in this matter, and look forward to hearing from you.

Sincerely,

TELLER, HASSELL & HOPSON, LLP

Philip Schrader

PHILIP SCHRADER

GPS/jpm
Enclosures
00202778.WPD

cc: Dr. Elizabeth Swinford

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANTS**

MOTION TO COMPEL INITIAL DISCLOSURES OR, ALTERNATIVELY, MOTION TO DISMISS

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against Defendants.

5. Defendants further request that the Court order Plaintiff to pay as ___________ the Defendants' reasonable expenses, including attorney's fees, incurred in making this Motion, by Fed. R. Civ. Pro. 37(a)(5)(A).

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Dated: February ___, 2012.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY:_______________________________
W. BRIGGS HOPSON, III

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street - Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114

CERTIFICATE OF SERVICE

I, W. Briggs Hopson, III, being first duly sworn, do hereby certify that the above is true and correct, and I have this day sent by U. S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the _____ day of February, 2012.

W. BRIGGS HOPSON, III

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

V. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANTS**

GOOD FAITH CERTIFICATE

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Counsel further certify that:

√ as appropriate:

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___ 3. The motion is opposed by Plaintiff's counsel.

___ 4. The parties agree that replies and rebuttals to the motion will be submitted to the magistrate judge in accordance with the time limitations stated in L.U.Civ.P. 7(b)(4).

This the ___ day of __________ 2012.

____
Signature of Plaintiff's Attorney

Lisa M. Ross, Esq. (MSB # 9755)
Typed Name and Bar Number

____
Signature of Defendant's Attorney

G. Philip Schrader, IV (MSB # 102201
Typed Name and Bar Number

Philip Schrader
TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39180
(*phone*) (601) 636-6565
(*fax*) (601) 631-0114

Philip Schrader

From: Jerri Mocknick
Sent: Monday, February 20, 2012 10:16 AM
To: lross@lmrossatlaw.com
Cc: Philip Schrader; W. Briggs Hopson
Subject: VWSD et al adv Celia Gumbs-Gray; Action No. 5:11CV106DCB-JMR
Attachments: Scan of Lisa Ross letter with enclosures (00202803).PDF

Ms. Ross:

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Thank you,

Jerri P. Mocknick
Teller, Hassell & Hopson, LLP
Nogales Building
1201 Cherry Street
Vicksburg, MS 39183-2919
Phone: (601) 636-6565
Fax: (601) 631-0114
jmocknick@tellerlaw.com

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*********************
*** FAX TX REPORT ***
*********************

TRANSMISSION OK

JOB NO.                       2035
DESTINATION ADDRESS           6019817917p21
PSWD/SUBADDRESS
DESTINATION ID
ST.  TIME                     02/20 10:59
USAGE T                       03'06
PGS.                          5
RESULT                        OK
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LAW OFFICES OF
TELLER, HASSELL & HOPSON, LLP
www.tellerlaw.com
Writer's e-mail: pschrader@tellerlaw.com

LANDMAN TELLER, JR.
DOUGLAS E. HASSELL
B. BLAKE TELLER
W. BRIGGS HOPSON, III*
G. PHILIP SCHRADER, IV
LAUREN ROBERTS CAPPAERT

LANDMAN TELLER (1907-1995)

*ALSO ADMITTED IN LOUISIANA

1201 Cherry Street - Nogales Building
Vicksburg, MS 39183-2919
Ph. (601) 636-6565
Fax: (601) 631-0114

February 20, 2012

Lisa M. Ross, Esq.
Attorney at Law
Post Office Box 11264
Jackson, MS 39283-1264

Via Email: lross@lmrossatlaw.com
and facsimile: (601) 981-7917

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I appreciate your attention in this matter, and look forward to hearing from you.

Sincerely,

TELLER, HASSELL & HOPSON, LLP

Return Address: LAW OFFICES OF TELLER HASSELL & HOPSON LLP
Nogales Building - 1201 Cherry Street
Vicksburg, MS 39183-2919

Delivery Address: Lisa M Ross Esq
Attorney At Law
PO Box 11264
Jackson, MS 39283-1264

Cost Code: Gail Parker

Print Date: February 20, 2012 - 10:08:33 AM
Mail Date: February 21, 2012
User: mwchaney
Weight: 0 lbs 1 oz
Refund Type: E-refund
Printed Msg:

Class/Service: First Class ® **$0.45**
Special Services:
Insurance: N/A

TOTAL COST: **$0.45**

Tracking:

Gail off- Sitting up front

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

PLAINTIFF'S NOTICE OF SERVICE

NOTICE is hereby given that Plaintiff, Celia L. Gumbs-Gray, by and through counsel of record has this date served a copy of the following pleading(s) in the above-entitled action on April 9, 2012, to the person(s) listed on the Certificate of Service:

1. **PLAINTIFF'S INITIAL DISCLOSURES**

RESPECTFULLY SUBMITTED, this the 9th day of April, 2012.

CELIA L. GUMBS-GRAY

By: //s// Lisa M. Ross

CERTIFICATE OF SERVICE

I, Lisa Ross, hereby certify that I have this day caused to be filed a true and correct copy of the above document using the Court's ECF system which sent notification to the following:

W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street- Nogales Building
Vicksburg, MS 39183

SO CERTIFIED, this the 9th day of April, 2012.

//s// Lisa M. Ross__________
Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY	PLAINTIFF
V.	CIVIL ACTION NO. 5:11CV106DCB-JMR
VICKSBURG WARREN SCHOOL DISTRICT AND DR. ELIZABETH SWINFORD	DEFENDANTS

ENTRY OF APPEARANCE

COMES NOW, Philip Schrader of the law firm Teller, Hassell & Hopson, LLP, and enters his appearance as Associate Counsel for Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, and requests that copies of all pleadings and notices of all hearings or other proceedings be sent to:

pschrader@tellerlaw.com

Dated: April 11, 2012.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

BY: /s/ PHILIP SCHRADER

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919
Telephone: (601) 636-6565
Facsimile: (601) 631-0114

CERTIFICATE OF SERVICE

I, Philip Schrader, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: April 11, 2012.

/s/ Philip Schrader

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

NOTICE OF DEPOSITION

TO: Lisa M. Ross, Esq.
Attorney at Law
P. O. Box 11264
Jackson, MS 39283-1264

PLEASE TAKE NOTICE that the deposition of CELIA L. GUMBS-GRAY will be taken upon oral examination and recorded by stenographic and/or videographic means before a Notary Public or other officer authorized by law to administer oaths, beginning at 9:00 a.m. on May 7, 2012, at the law offices of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183. This deposition will be taken pursuant to and in accordance with the Federal Rules of Civil Procedure and may be used for any purpose, including trial. You are hereby invited to attend and participate as you deem proper.

Dated: April 23, 2012

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY: /s/ PHILIP SCHRADER

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919
Telephone: (601) 636-6565
Facsimile: (601) 631-0114

CERTIFICATE OF SERVICE

I, Philip Schrader, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: April 23, 2012.

/s/ Philip Schrader

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 5:11CV106DCB-JMR

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* Celia L. Gumbs-Gray

was received by me on *(date)* ______ .

☑ I served the subpoena by delivering a copy to the named individual as follows: Celia L. Gumbs-Gray

on *(date)* 4/28/12 ; or

☐ I returned the subpoena unexecuted because: ______ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

$ ______ .

My fees are $ ______ for travel and $ ______ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 4/30/12

L Tompk

Server's signature

Lance Tompkins

Printed name and title

1434 Canada Cross Rd.

Server's address

Additional information regarding attempted service, etc:

Sworn to and subscribed before me this, the 30 day of April, 2012.

Gail F. Parker
Notary Public

STATE OF MISSISSIPPI
GAIL F. PARKER
ID No 50101
NOTARY PUBLIC
Comm Expires September 1, 2013
WARREN COUNTY

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA L. GUMBS-GRAY
Plaintiff
v.
VICKSBURG WARREN SCHOOL DISTRICT AND DR. ELIZABETH SWINFORD
Defendant

Civil Action No. 5:11CV106DCB-JMR

(If the action is pending in another district, state where:)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: CELIA L. GUMBS-GRAY
2621 Roosevelt Avenue Vicksburg, MS 39180 (601) 642-7036

☑ *Testimony:* **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Teller, Hassell & Hopson, LLP 1201 Cherry Street Vicksburg, MS 39183-2919	Date and Time: 05/07/2012 9:00 am

The deposition will be recorded by this method: stenographically and audio-recording

☐ *Production:* You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 04/23/2012

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Philip Schrader
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* Vicksburg Warren School District and Dr. Elizabeth Swinford, who issues or requests this subpoena, are:
Philip Schrader; Teller, Hassell & Hopson, LLP; 1201 Cherry Street, Vicksburg, MS 39183-2919;
pschrader@tellerlaw.com; (601) 636-6565

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

RE-NOTICE OF DEPOSITION

TO: Lisa M. Ross, Esq.
Attorney at Law
P. O. Box 11264
Jackson, MS 39283-1264

PLEASE TAKE NOTICE that the deposition of CELIA L. GUMBS-GRAY will be taken upon oral examination and recorded by stenographic and/or videographic means before a Notary Public or other officer authorized by law to administer oaths, beginning at 9:00 a.m. on May 8, 2012, at the law offices of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183. This deposition will be taken pursuant to and in accordance with the Federal Rules of Civil Procedure and may be used for any purpose, including trial. You are hereby invited to attend and participate as you deem proper.

Dated: May 1, 2012

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY: /s/ PHILIP SCHRADER

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919
Telephone: (601) 636-6565
Facsimile: (601) 631-0114

CERTIFICATE OF SERVICE

I, Philip Schrader, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: May 1, 2012.

/s/ Philip Schrader

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action (Page 2)

Civil Action No. 5:11CV106DCB-JMR

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* CELIA L. GUMBS -GRAY

was received by me on *(date)* ________ .

☒ I served the subpoena by delivering a copy to the named individual as follows: Via email through Ms. Gumbs-Gray's attorney of record Lisa M. Ross on *(date)* 5/3/2012 ; or

☐ I returned the subpoena unexecuted because: ________ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

$ ________ .

My fees are $ ______ for travel and $ ______ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 5/3/12

Jeri P. Mocknick
Server's signature

Jeri P. Mocknick, legal Asst.
Printed name and title

1201 Cherry Street, Vicksburg MS
Server's address

Additional information regarding attempted service, etc:

Sworn to and subscribed before me this the 3rd day of May, 2012

STATE OF MISSISSIPPI
GAIL F. PARKER
ID No 50101
NOTARY PUBLIC
Comm Expires September 1, 2013
WARREN COUNTY

Gail F. Parker
Notary Public

Jeri Mocknick

To: Lisa Ross
Cc: Philip Schrader; W. Briggs Hopson
Subject: RE: VWSD adv. Gumbs-Gray; 5:11CV106DCB-JMR
Attachments: Scan of Subpoena to Testify at a Deposition (00204443).PDF

Ms. Ross:

Please see attached Subpoena to Testify at a Deposition on behalf of your client Celia Gumbs-Gray. We appreciate your help in this matter.

Thank you,

Jerri P. Mocknick
Teller, Hassell & Hopson, LLP
Nogales Building
1201 Cherry Street
Vicksburg, MS 39183-2919
Phone: (601) 636-6565
Fax: (601) 631-0114
jmocknick@tellerlaw.com

From: Lisa Ross [mailto:lross@lmrossatlaw.com]
Sent: Thursday, May 03, 2012 8:57 AM
To: Jerri Mocknick
Subject: RE: VWSD adv. Gumbs-Gray; 5:11CV106DCB-JMR

```
U can email it.
Sent from my Cellular South Galaxy S
```

Jerri Mocknick wrote:
Ms. Ross:

Will you except the Subpoena by email, or do you wish to have a Process Server serve you?

Thank you,

Jerri P. Mocknick
Teller, Hassell & Hopson, LLP
Nogales Building
1201 Cherry Street
Vicksburg, MS 39183-2919
Phone: (601) 636-6565
Fax: (601) 631-0114
jmocknick@tellerlaw.com

From: Lisa Ross [mailto:lross@lmrossatlaw.com]
Sent: Wednesday, May 02, 2012 11:30 AM
To: Jerri Mocknick
Subject: RE: VWSD adv. Gumbs-Gray; 5:11CV106DCB-JMR

Please serve me.

AO 88A (Rev. 06/09) Subpoena to Testify at a Deposition in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA GUMBS-GRAY
Plaintiff
v.
VICKSBURG WARREN SCHOOL DISTRICT AND DR. ELIZABETH SWINFORD
Defendant

Civil Action No. 5:11CV106DCB-JMR

(If the action is pending in another district, state where:)

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: CELIA L. GUMBS-GRAY, By and Through her attorney, LISA M. ROSS, Attorney at Law,
514E East Woodrow Wilson Ave, Jackson, MS 39216 (601) 981-7900

☑ *Testimony:* **YOU ARE COMMANDED** to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: Teller, Hassell & Hopson, LLP 1201 Cherry Street Vicksburg, MS 39183-2919	Date and Time: 05/08/2012 9:00 am

The deposition will be recorded by this method: stenographically and audio-recording.

☐ *Production:* You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/02/2012

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Philip Schrader
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* Vicksburg Warren School District and Dr. Elizabeth Swinford, who issues or requests this subpoena, are:
Philip Schrader, Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183-2919, (601) 636-6565, pschrader@tellerlaw.com

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. 5:11CV106DCB-JMR

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* Celia L. Gumbs-Gray

was received by me on *(date)* ______ .

☒ I served the subpoena by delivering a copy to the named person as follows: Kim Massey, Receptionist / Clinic Manager John Moore

on *(date)* 5/16/12 (1:18) ; or

☐ I returned the subpoena unexecuted because: ______

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

$ ______ .

My fees are $ 0 for travel and $ ______ for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: 5/16/12

Jerri P. Mocknick
Server's signature

Jerri P. Mocknick, Legal Asst.
Printed name and title

1201 Cherry St. Vicksburg MS 39183-2919
Server's address

Additional information regarding attempted service, etc:

State of Mississippi
Gail F. Parker
ID No 50101
Notary Public
Comm Expires September 1, 2013
Warren County

Gail F. Parker
Notary Public

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

CELIA L. GUMBS-GRAY
Plaintiff
v.
VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD
Defendant

Civil Action No. 5:11CV106DCB-JMR

(If the action is pending in another district, state where:)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Medical Associates of Vicksburg
2080 S Frontage Road, Vicksburg, MS 39180

☑ *Production:* **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: Copies of any and all medical records, hospital records and psychological records for treatment of Celia L. Gumbs-Gray (SSN XXX-XX-3048) from May 1, 2011 through September 30, 2011.

Place: Teller, Hassell & Hopson, LLP 1201 Cherry Street Vicksburg, MS 39183-2919	Date and Time: 05/29/2012 5:00 ~~am~~ pm

☐ *Inspection of Premises:* **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/14/2012

CLERK OF COURT

____
Signature of Clerk or Deputy Clerk

OR

Philip Schrader
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* Vicksburg Warren School District and Dr. Elizabeth Swinford, who issues or requests this subpoena, are:

Philip Schrader; Teller, Hassell, & Hopson, LLP; 1201 Cherry Street; Vicksburg, MS 39183-2919;
pschrader@tellerlaw.com; (601) 636-6565; fax: (601) 631-0114

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that on Friday, June 15, 2012, at 9:30 a.m., the Plaintiff in the above-captioned action will take the oral deposition of Dr. Elizabeth Swinford at the Law Office of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183.

Said deposition will be conducted before an officer authorized by law to administer oaths, pursuant to the Federal Rules of Civil Procedure. Said deposition will continue from day to day until completed. You are invited to attend and take part as you deem necessary and proper.

RESPECTFULLY SUBMITTED, this the 5th day of June, 2012.

//s// Lisa M. Ross
Lisa M. Ross (MSB#9755)
Post Office Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 918-7917 (facsimile)

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 5th day of June, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that on Friday, June 15, 2012, at 1:30 p.m., the Plaintiff in the above-captioned action will take the oral deposition of Paula Johnson at the Law Office of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183.

Said deposition will be conducted before an officer authorized by law to administer oaths, pursuant to the Federal Rules of Civil Procedure. Said deposition will continue from day to day until completed. You are invited to attend and take part as you deem necessary and proper.

RESPECTFULLY SUBMITTED, this the 5th day of June, 2012.

//s// Lisa M. Ross
Lisa M. Ross (MSB#9755)
Post Office Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 918-7917 (facsimile)

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 5th day of June, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

RE-NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that on Tuesday, June 19, 2012, at 9:30 a.m., the Plaintiff in the above-captioned action will take the oral deposition of Dr. Elizabeth Swinford at the Law Office of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183.

Said deposition will be conducted before an officer authorized by law to administer oaths, pursuant to the Federal Rules of Civil Procedure. Said deposition will continue from day to day until completed. You are invited to attend and take part as you deem necessary and proper.

RESPECTFULLY SUBMITTED, this the 6th day of June, 2012.

//s// Lisa M. Ross
Lisa M. Ross (MSB#9755)
Post Office Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 918-7917 (facsimile)

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 6th day of June, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

RE-NOTICE OF DEPOSITION

PLEASE TAKE NOTICE that on Tuesday, June 19, 2012, at 1:30 p.m., the Plaintiff in the above-captioned action will take the oral deposition of Paula Johnson at the Law Office of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183.

Said deposition will be conducted before an officer authorized by law to administer oaths, pursuant to the Federal Rules of Civil Procedure. Said deposition will continue from day to day until completed. You are invited to attend and take part as you deem necessary and proper.

RESPECTFULLY SUBMITTED, this the 6th day of June, 2012.

//s// Lisa M. Ross
Lisa M. Ross (MSB#9755)
Post Office Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 918-7917 (facsimile)

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 6th day of June, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

MOTION FOR SUMMARY JUDGMENT

COME NOW, Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, Superintendent ("Defendants") by and through counsel, and move the Court for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure; and in support thereof, would show the following, to-wit:

1. Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See* FED. R. CIV. PROC. 56. "The nonmovant (in this case the plaintiff) must "make a sufficient showing of an essential element of the case to which [she] has the burden of proof." [She] "must set forth specific facts to establish that there is a genuine issue for trial, but where the evidential submissions lack probative value as to a genuine issue, summary judgment is appropriate." *Id.* ***Tuesno v. Jackson***, 2011 WL 6400251, 1 -2 (S.D.Miss.,2011) (slip op.) (citing ***Melton v. Teacher's Ins. and Annuity Assoc. of America,*** 114 F.3d 557, 559 (5th Cir. 1997).

2. On July, 18, 2011, Plaintiff, Celia Gumbs-Gray ("Plaintiff") filed a complaint with this Court stating that the Defendants deprived her of certain constitutional rights, including, but not limited to, due process of law. She also alleges that Defendants breached the employment contract with her.

3. Plaintiff's Complaint states that she had surgery on August 17, 2010, due to a

work-related accident while employed at the Vicksburg Warren School District. She did not return to work for the remainder of the school year. Plaintiff avers that she was terminated after receiving a health insurance notice (Continuation Coverage Election Notice, or "COBRA") that listed her as having voluntarily ended her employment. She alleges that this was an unlawful breach of contract and that her due process rights were violated because she did not receive a hearing after allegedly being terminated.

4. Plaintiff claims she produced to Defendants a Return to Work certificate in June of 2011, thereby validating her ability to return to employment with the School District. However, the affidavits of School District employees Dr. Elizabeth Swinford, Zena Keen, Gail Kavanaugh and Paula Johnson attached as Exhibits "A," "B," "C" and "D" will show that Plaintiff did not produce a Return to Work certificate until August 4, 2011.

5. Plaintiff was never issued a notice of termination by Defendants. Out of an abundance of caution, and since Plaintiff appeared to be voluntarily ending her employment, Defendants provided her the COBRA Notice so that she would not lose her health insurance benefits. She apparently considered this a termination and unlawful breach of contract. She further contends that this termination without hearing violated her due process rights.

6. On or about August 4, 2011, the date which she produced her Return to Work certificate, Plaintiff was offered a contract for the 2011-2012 school year. Plaintiff accepted employment with Defendants for the 2011-2012 school year, thereby making her claims against the Defendants moot. As Plaintiff was not terminated by the Defendants, Plaintiff has no claim for damages.

7. Although Defendants had not earlier sought to bar a jury trial, Plaintiff has not

provided in discovery any proof of a violation of rights pursuant to 42 U.S.C. § 1983. Therefore, Plaintiff is not entitled to a trial by jury against Defendants, a political subdivision (School District) and its chief officer (Superintendent). Defendants hereby move that, pursuant to Rule 39(a)(2) of the Federal Rules of Civil Procedure, the Court disallow a jury trial if this case is not dismissed prior to trial.

8. As will be shown more fully in the Memorandum of Authorities and Brief in Support and the attached Exhibits:

Exhibit A - Affidavit of Dr. Elizabeth Swinford

Exhibit B - Affidavit of Zena Keen

Exhibit C - Affidavit of Gail Kavanaugh

Exhibit D - Affidavit of Paula Johnson

Exhibit E - Insurance Continuation Coverage Election Notice

Exhibit F - Deposition of Celia L. Gumbs-Gray

Exhibit G - Return to Work Certificate

Exhibit H - 2011-12 Contract of Employment,

Plaintiff has failed to produce any issues of material fact or any credible evidence that her civil rights have been violated and further has offered no evidence of a breach of contract by Defendants. Therefore, the School District is entitled to judgment as a matter of law and summary judgment should be granted in its favor.

9. This motion is not asserted for the purpose of harassment or unnecessary delay,

but so that the interests of justice, equity and judicial economy may be best served.

WHEREFORE, PREMISES CONSIDERED, Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, Superintendent, pray that this Court, with or without hearing, grant summary judgment against the Plaintiff pursuant to Rules 56 of the Federal Rules of Civil Procedure, dismissing this case at Plaintiff's costs. Defendants further pray for all other general and equitable relief as the Court deems appropriate.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT AND
DR. ELIZABETH SWINFORD

By:______________________________
W. BRIGGS HOPSON, III (MS Bar #9067)
LAUREN ROBERTS CAPPAERT (MS Bar #101923)
G. PHILIP SCHRADER, IV (MS Bar #102201)

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street – Nogales Building
Vicksburg, MS 39183
Ph: (601) 636-6565
Fax: (601) 631-0114
hopson@tellerlaw.com
lcappaert@tellerlaw.com
pschrader@tellerlaw.com

CERTIFICATE OF SERVICE

I, W. Briggs Hopson, III, being first duly sworn, do hereby certify that the above is true and correct, and I have this day sent by U. S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the 14th day of June, 2012.

/s/ W. Briggs Hopson, III
W. BRIGGS HOPSON, III

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF ELIZABETH D. SWINFORD

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Dr. Elizabeth D. Swinford, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am the Superintendent of Education for the Vicksburg Warren School District;

3. Celia Gumbs-Gray was never sent a letter of termination from Vicksburg Warren School District;

4. At no time did Celia Gumbs-Gray request a hearing regarding what she alleges was her termination from the School District;

5. I did not state to Celia Gumbs-Gray that she needed to submit a resume and application to be re-considered for employment with Vicksburg Warren School District;

6. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011;

7. On August 4, 2011, I received an original Return to Work certificate from Celia Gumbs-Gray;

8. On August 4, 2011, a contract for employment for the 2011-12 school year was offered to Celia Gumbs-Gray;

9. On August 4, 2011, Celia Gumbs-Gray accepted employment with the Vicksburg Warren School District for the 2011-12 school year and a contract was executed by myself and

EXHIBIT
A
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Celia Gumbs-Gray reflecting same;

10. Celia Gumbs-Gray was employed as a teacher with the Vicksburg Warren School District for the 2011-12 school year.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 14 day of June, 2012.

DR. ELIZABETH D. SWINFORD

SWORN TO AND SUBSCRIBED before me this the 14 day of June, 2012.

STATE OF MISSISSIPPI
GAIL F. PARKER
ID No 50101
NOTARY PUBLIC
Comm Expires September 1, 2013
WARREN COUNTY

Gail F. Parker
NOTARY PUBLIC
My Commission Expires: 9/1/2013

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF ZENA KEEN

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Zena Keen, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am presently the Personnel Manager for the Vicksburg Warren School District. During the time period alleged in this incident, I was the Finance Clerk and assisted with Personnel matters for the Vicksburg Warren School District;

3. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011;

4. Because I was not sure of Celia Gumbs-Gray's intention to return to work, I sent a continuation of benefits (COBRA) form to her out of an abundance of caution so that she would not lose her insurance benefits;

5. To my knowledge, Celia Gumbs-Gray was never sent a letter of termination from Vicksburg Warren School District;

6. As the Personnel Manager for Vicksburg Warren School District, I have reviewed the personnel file for Celia Gumbs-Gray. Ms. Gray's file does not contain a Return to Work certificate prior to the Return to Work certificate she submitted on August 4, 2011. Ms. Gray's file contains no record of a Return to Work certificate being submitted in June, 2011.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 13th day of June, 2012.

Zena Keen

ZENA KEEN

EXHIBIT

tabbies

B

SWORN TO AND SUBSCRIBED before me this the 13th day of June, 2012.

Crystal R. Moulder

NOTARY PUBLIC
My Commission Expires:__________

STATE OF MISSISSIPPI
CRYSTAL R. MOULDER
ID No
86399
NOTARY PUBLIC
Comm Expires
July 31, 2015
WARREN COUNTY

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF GAIL KAVANAUGH

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Gail Kavanaugh, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am the Child Nutrition Director, Safety Administrator and Worker's Compensation Administrator for the Vicksburg Warren School District;

3. Through my job as Worker's Compensation Administrator with the School District, I assisted Celia Gumbs-Gray with her Worker's Compensation matter;

4. During her medical leave, I communicated periodically with Celia Gumbs-Gray regarding her condition. At no time during these communications did Celia Gumbs-Gray state to me that she intended to return to work with Vicksburg Warren School District;

5. I did not state to Celia Gumbs-Gray that she needed to submit a resume and application to be re-considered for employment with Vicksburg Warren School District;

6. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 12 day of June, 2012.

Gail Kavanaugh
GAIL KAVANAUGH

SWORN TO AND SUBSCRIBED before me this the 12th day of June, 2012.

Crystal R. Moulder
NOTARY PUBLIC
My Commission Expires:____________

CRYSTAL R. MOULDER
ID No 86399
NOTARY PUBLIC
Comm Expires July 31, 2015

EXHIBIT
C

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF PAULA JOHNSON

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Paula Johnson, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am the Assistant Superintendent of Education for the Vicksburg Warren School District. I became employed with the Vicksburg Warren School District in January of 2011;

3. I spoke with Celia Gumbs-Gray via telephone on one occasion regarding her medical condition and medical leave. Additionally, in approximately late May or early June, I had a meeting with Celia Gumbs-Gray regarding her medical leave;

4. In my communication with Celia Gumbs-Gray, she indicated to me that she would like to return to work with the Vicksburg Warren School District;

5. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011;

6. I did not state to Celia Gumbs-Gray that she needed to submit a resume and application to be re-considered for employment with Vicksburg Warren School District;

7. To my knowledge, Celia Gumbs-Gray was never sent a letter of termination from Vicksburg Warren School District;

8. To my knowledge, at no time did Celia Gumbs-Gray request a hearing regarding what she alleges was her termination from the School District;

EXHIBIT

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9. Celia Gumbs-Gray was employed as a teacher with the Vicksburg Warren School District for the 2011-12 school year.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 13th day of June, 2012.

Paula Johnson
PAULA JOHNSON

SWORN TO AND SUBSCRIBED before me this the 13th day of June, 2012.

Crystal R. Moulder
NOTARY PUBLIC
My Commission Expires:

STATE OF MISSISSIPPI
CRYSTAL R. MOULDER
ID No 86399
NOTARY PUBLIC
Comm Expires July 31, 2015
WARREN COUNTY

ElecW (Rev. 4/10)

State and School Employees' Health Insurance Plan
Continuation Coverage Election Notice

To: Celia Gumbs Gray
Name of Employee or Qualified Beneficiary(ies)

July 11, 2011
Date Notified

This notice contains important information about your right to continue your health care coverage in the State and School Employees' Health Insurance Plan (Plan). Please read the information contained in this notice very carefully.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act (201 0 DOD Act) on December 19, 2009 and the Temporary Extension Act of 201 0 (TEA) on March 2, 20 1 0, reduces the COBRA premium in some cases. On April 15, 20 1 0, the President signed into law an extension of unemployment benefits and COBRA premium assistance. You are receiving this election notice because you experienced a loss of coverage that occurred during the period that begins with September 1, 2008 and ends with May 31, 2010 and you may be eligible for the temporary premium reduction for up to 15 months. To help determine whether you can get the ARRA premium reduction, you should read this notice and the attached documents carefully. In particular, reference the "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" with details regarding eligibility, restrictions, and obligations and the "Application for Treatment as an Assistance Eligible Individual." **If you believe you meet the criteria for the premium reduction, complete the "Application for Treatment as an Assistance Eligible Individual" and return it with your completed Election Form.**

To elect COBRA continuation coverage, follow the instructions on the following pages to complete the enclosed Election Form and submit it to Blue Cross & Blue Shield of Mississippi.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on July 31, 2011 due to:

- ☒ End of employment
  - ☐ Involuntary ☒ Voluntary
- ☐ Divorce or legal separation
- ☐ Death of employee
- ☐ Entitlement to Medicare
- ☐ Reduction in hours of employment
- ☐ Loss of dependent child status

If you believe you meet the criteria for the premium reduction, complete the "Request for Treatment as an Assistance Eligible Individual" and return it along with this page and your completed Election Form.

Each person ("qualified beneficiary") in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to 18 months:

- ☒ Employee or former employee
- ☐ Spouse or former spouse
- ☐ Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
- ☐ Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on August 1, 2011 and can last until February 28, 2012. This Election Form must be completed and returned by mail. It must be post-marked no later than September 8, 2011.

EXHIBIT
E

COBRA Continuation Coverage Election Form

Instructions: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan.

Send completed Election Form to:

Blue Cross & Blue Shield of Mississippi
PO Box 23734
Jackson, MS 39225

This Election Form must be completed and returned by mail. If mailed, it must be post-marked no later than September 8, 2011 **.**

If you do not submit a completed Election Form by the due date shown above, you will lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you furnish a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you furnish the completed Election Form.

I (We) elect COBRA continuation coverage in the State and School Employees' Health Insurance Plan (Plan) as indicated below:

Name	Date of Birth	Relationship to Employee	SSN (or other identifier)

a. ____________________

b. ____________________

c. ____________________

d. ____________________

____
Signature

____
Date

____
Print Name

____
Relationship to individual(s) listed above

____
____
____
Print Address

____
Telephone number

IMPORTANT INFORMATION
ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS

What is continuation coverage?
Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage when there is a "qualifying event" that would result in a loss of coverage under an employer's plan. Depending on the type of qualifying event, "qualified beneficiaries" can include the employee (or retired employee) covered under the group health plan, the covered employee's spouse, and the dependent children of the covered employee.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who are not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the Plan, including open enrollment and special enrollment rights.

How long will continuation coverage last?
In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of 18 months. In the case of loss of coverage due to an employee's death, coverage may be continued for up to a total of 36 months. In the case of loss of coverage due to a divorce or legal separation, an employee becoming entitled to Medicare benefits or a dependent child ceasing to be a dependent under the terms of the Plan, coverage may be continued for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. This notice shows the maximum period of continuation coverage available to the qualified beneficiaries.

Continuation coverage will be terminated before the end of the maximum period if:
- any required premium is not paid in full on time,
- a qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- a covered employee becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- the employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of participant or beneficiary not receiving continuation coverage (such as fraud).

How can you extend the length of COBRA continuation coverage?
If you elect continuation coverage, an extension of the 18-month period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify Blue Cross & Blue Shield of Mississippi (BCBSMS) of a disability or a second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

Disability
An 11-month extension of coverage may be available if any of the qualified beneficiaries is determined by the Social Security Administration (SSA) to be disabled. The disability has to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. You must make sure that BCBSMS is notified of the Social Security Administration's determination within 60 days of the date of the determination and before the end of the 18-month period of COBRA continuation coverage. This notice should be sent to Blue Cross & Blue Shield of Mississippi, P O Box 23734, Jackson, MS 39225. Each qualified beneficiary who has elected continuation coverage will be entitled to the 11-month disability extension if one of them qualifies. If the qualified beneficiary is determined by SSA to no longer be disabled, you must notify the Plan of that fact within 30 days after SSA's determination.

Second Qualifying Event
An 18-month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first 18 months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify BCBSMS within 60 days after a second qualifying event occurs if you want to extend your continuation coverage.

How can you elect COBRA continuation coverage?

To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all of the qualified beneficiaries.

In considering whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied to you by other group health plans if you have more than a 63-day gap in health coverage, and election of continuation coverage may help you not have such a gap. Second, you will lose the guaranteed right to purchase individual health insurance policies that do not impose such pre-existing condition exclusions if you do not get continuation coverage for the maximum time available to you. Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage ends because of the qualifying event listed above. You will also have the same special enrollment right at the end of continuation coverage if you get continuation coverage for the maximum time available to you.

How much does COBRA continuation coverage cost?

Each qualified beneficiary is required to pay the entire cost of continuation coverage. The amount a qualified beneficiary is required to pay may not exceed 102 percent (or, in the case of an extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

When and how must payment for COBRA continuation coverage be made?

First payment for continuation coverage
If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than 45 days after the date of your election. (This is the date the Election Notice is post-marked.) If you do not make your first payment for continuation coverage in full not later than 45 days after the date of your election, you will lose all continuation coverage rights under the Plan. Coverage will not be reinstated until the initial payment is received. This payment must include all premiums due for the coverage period beginning with your COBRA coverage effective date through the current month. You are responsible for making sure that the amount of your first payment is correct. You may contact BCBSMS to confirm the correct amount of your first payment. If you wish to have your monthly premium paid by bank draft, contact BCBSMS at 800-709-7881.

Periodic payments for continuation coverage
After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due on the first day of the month for that coverage period. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan will send periodic notices of payments due for these coverage periods.

Grace periods for periodic payments
Although periodic payments are due on the dates shown above, you will be given a grace period of 30 days after the first day of the coverage period to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment.

If you fail to make a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan. Your first payment and all periodic payments for continuation coverage should be sent to:

Blue Cross & Blue Shield of Mississippi
P O Box 23734
Jackson, MS 39225

MAKE CHECKS/MONEY ORDERS PAYABLE TO: STATE/SCHOOL INSURANCE FUND

NOTE: NSF and other returned checks will be assessed a $30 handling fee and must be satisfied immediately to avoid coverage termination.

For more information
This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your *Plan Document*. If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your *Plan Document*, you should contact BCBSMS at 800-709-7881.

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

Keep Blue Cross & Blue Shield Informed of Address Changes
In order to protect your and your family's rights, you should keep the BCBSMS informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to BCBSMS.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY
PLAINTIFF,

V.
CIVIL ACTION NO: 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD
DEFENDANTS.

* * * * * * * * * * * * * * * * * * *

DEPOSITION OF CELIA L. GUMBS-GRAY

Taken on Tuesday, May 8, 2012, at the Law Office of Teller, Hassell & Hopson, LLP, at 1201 Cherry Street, Vicksburg, Mississippi, beginning at approximately 9:30 a.m.

* * * * * * * * * * * * * * * * *

APPEARANCES:

PHILIP SCHRADER, ESQUIRE
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, Mississippi 39183-2919
Counsel for Defendants

LISA M. ROSS, ESQUIRE
Attorney at Law
Post Office Box 11264
Jackson, Mississippi 39283-1264
Counsel for Plaintiff

REPORTED BY: ESTELLA WREN, CSR #1141
Official Court Reporter

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SIGNATURE OF WITNESS

I, _______________, do solemnly swear that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:

PAGE: LINE: SHOULD READ: REASON FOR CHANGE:

____ ____ _______________ __________________
____ ____ _______________ __________________
____ ____ _______________ __________________
____ ____ _______________ __________________
____ ____ _______________ __________________

____
(SIGNATURE)

NOTARIZATION

I, _______________, Notary Public for the State of__________________, ______________, County, do hereby certify that _____________ personally appeared before me this ______ day of ______________, 2012, at _______________, ________________.

____
(Notary Public)

My Commission Expires:

____

CELIA L. GUMBS-GRAY
having been first duly sworn, was
examined and testified as follows:
EXAMINATION

***BY MR. SCHRADER*:**

Q. Would you please state your full name for the record.

A. My name is Celia Lorencia Gumbs-Gray.

Q. Okay. When you introduced yourself to me, you introduced yourself as Celia Gray. Would you like me to call you Mrs. Gray or Mrs. Gumbs-Gray? How would you like me to refer to you?

A. You can call me Mrs. Gray.

Q. All right. Mrs. Gray, what we're doing here is a deposition in the civil proceeding that was filed against the Vicksburg Warren School District. Have you ever given a deposition before?

A. No.

Q. All right. To give you an idea of what to expect. What we'll be doing here today is I'll be asking you a lot of questions about your lawsuit against the school district so that I can get a clear understanding of what your claims are against the school district. I'll be asking a lot of questions. And if at any time you don't understand any of the

questions that I ask, if you'll let me know, I'll try to rephrase it or restate it so that you and I are on the same page. Okay?

A. Okay.

Q. And I'll ask if you have any confusion about any question that I ask you, let me know and I'll try to rephrase it. If I use any terms that you don't understand or you're not sure about, if you'll let me know we'll try to clear that up. If you answer a question, I'll assume that you understood the question, okay? Is that fair?

A. Yes.

Q. All right. We have a court reporter here that's transcribing my questions and your answers and any objections or any statements that Ms. Ross has. So I'm going to ask that prior to your answering a question if you'll wait until I'm finish asking my question and then you answer, and then I'll try to wait until you finish your answer before I ask another question so that the court reporter can get that. Okay?

A. Yes.

Q. Also, it's hard for her to take down nods or shakes of the head and I have a problem with doing that. And so I'm going to ask that if it's a yes or

no question, that you will answer yes or no. It's hard to get the uh-huh and huh-uh down on paper.

A. Okay.

Q. Now before we get started, I'd like to have the Renotice of Deposition attached as an exhibit to the deposition. That will be our first exhibit.

(EXHIBIT NO. 1 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) All right. Ms. Gray, I assume you live here in Vicksburg; is that correct?

A. I do.

Q. And where do you live?

A. 2621 Roosevelt Avenue, Vicksburg, Mississippi.

Q. How long have you lived there?

A. About seven years, seven and a half years or so.

Q. Prior to moving into the Roosevelt Avenue address, did you live in Vicksburg?

A. Yes.

Q. Okay. How long have you lived in Vicksburg?

A. Okay. I got here in 2003. About eight years, eight or nine years.

Q. Okay. And where did you live before you

moved to Vicksburg in 2003?

A. On Pearl Street. I cannot be sure of the number, but I know it was on Pearl Street.

Q. Okay. And are you married?

A. Yes.

Q. And what's your husband's name?

A. His name is Steve B. Gray.

Q. All right. And does Steve work outside the home?

A. Yes, he does.

Q. And who does he work for?

A. Right now he is working for Kroger. He's out in Pearl.

Q. In Pearl?

A. Yes.

Q. Pearl, Mississippi?

A. Pearl, Mississippi.

Q. Okay. And he lives here in Vicksburg, too?

A. Yes, he does.

Q. Okay. Now I understand that you're a teacher.

A. Correct.

Q. How long have you been teaching?

A. I would say about 20 years, plus. It

could be more than that.

Q. Okay. So I assume that before you moved to Mississippi, you were a teacher somewhere else?

A. **Correct.**

Q. Okay. What other states or countries did you teach?

A. **On the Island. I worked with the Department of Education in the Virgin Islands.**

Q. And what years was that?

A. **Okay. Starting in '86, then I stopped in -- okay. I started in '86, I stopped in '92 or '93, and then I started back in '96. I stopped in 2003, and I'm here now.**

Q. And is that when you moved to Mississippi?

A. **Yes, that's when I moved to Mississippi.**

Q. Okay. What brought you to Mississippi?

A. **I got married to someone from Mississippi. He's from here.**

Q. I see. And I trust that you hold a Mississippi license from the Mississippi Department of Education?

A. **Yes.**

Q. When did you receive that?

A. **2004.**

Q. And have you taught for any other districts other than the Vicksburg Warren School District here in Mississippi?

A. **No.**

Q. Now I understand that you were hired in 2004 as a teacher for the Vicksburg Warren School District; is that correct?

A. **Correct.**

Q. And what school were you working at when you first hired on?

A. **Grove Street School.**

Q. Are you still at Grove Street?

A. **No, I'm not.**

Q. Where are you now?

A. **Right now I'm over at Redwood Elementary School.**

Q. Have you worked at any other schools other than Grove Street or Redwood?

A. **I was at WCI very briefly for about two weeks.**

Q. Okay. When was that?

A. **That was in August of 2009 -- no, 2010.**

Q. Okay. And any other schools in Vicksburg Warren School District other than Grove Street, Redwood or WCI?

A. **Not as a licensed teacher, no.**

Q. Okay. Have you worked at any other schools as something other than a licensed teacher?

A. **Yes.**

Q. What school was that?

A. **When I first got here in 2004, I did some subbing, so I was at a different school whenever they needed a substitute teacher.**

Q. Okay. What years were you at Grove Street?

A. **2004 when I started until about the end of the school year 2009.**

Q. Okay. Would that have been 2009/2010 school year that you would have finished up at Grove Street?

A. **I finished at Grove Street, yes, in '09.**

Q. Okay. And then after Grove Street you went to WCI?

A. **Correct.**

Q. And you were only there for a couple of weeks?

A. **Correct.**

Q. Okay. And then I assume that you started Redwood for the 2011/2012 school year?

A. **Correct. Right.**

Q. What did you teach at Grove Street?

A. **Okay. When I first started I taught pre-GD classes for seven and eight graders.**

Q. All right. And is Grove Street the alternative school?

A. **Yes, it is.**

Q. Has it been the alternative school the whole time you were there?

A. **Yes.**

Q. All right. And what are you teaching at Redwood?

A. **I have fourth grade.**

Q. My wife is a fourth grade teacher at Beachwood. All right. And at WCI, what were you teaching?

A. **I had fifth grade.**

Q. All right. Now I understand that you were involved in an altercation in 2009. Was it 2009 that you were involved in an altercation?

A. **Correct.**

Q. Okay. Can you tell me what happened in that altercation?

A. **Okay. It happened in the morning. The kids were just arriving at school. We were informed as teachers that when kids come to the classroom we**

should greet them at the door. But that particular school I was teaching at at the time was not like a regular school where kids would just walk around. We were informed by administration that when the kids get into the classroom do not let them walk the hallway, leave the room under any other circumstances unless it's an emergency due to the type of school we had because there were fights and what have you. So she came in and it took her a while for her to get to the room actually, because she was just late. I don't know what was wrong with her.

Q. This is a female student?

A. **It is. She was about 260 plus, very heavy. She came into the room and after a while then she wanted to leave, and I refused to let her leave. I was standing in front of the door because I didn't allow her to leave. She tackled me out of the way. So when she tackled me I fell toward the floor, but I didn't hit the floor. I grabbed onto the side of the panel of the door and was able to catch myself before I hit the floor.**

Q. Okay. And I understand that you were injured as a result of that?

A. **Yes, sir, I got messed up.**

Q. Okay. Did you leave school that day to

go get medical treatment?

A. **Yes. I didn't get to leave until later on because at that time I didn't know the procedure or anything. I didn't know the situation on that. I spoke to Ms. Grant from the main office and she told me she can send me to a doctor that the district knows which was a Dr. Easterling. And she was supposed to set up some sort of appointment to get me to see him and I made a phone call, which I got later on that day. I did not leave the school when that happened. Then I went to see him, and he spoke to me. He didn't examine me or anything. He sent me to get an x-ray, and he said seem like everything is fine; gave me some medicine and I went back to school.**

Q. Okay. What date was the incident on? Do you remember?

A. **It was September -- I'm not sure. I think it was September 19th. I'm not quite sure.**

Q. Okay. Back in 2009; is that right?

A. **That's correct.**

Q. All right. And you went to go see Dr. Easterling and he took an x-ray and gave you some meds and sent you back to work?

A. **Yes.**

Q. Okay. Did you see any other doctors for your back at that time?

A. **Not right at that time because I went back to school -- I was in extreme pain, I'm not going to lie to you; went back to work and my principal saw me and he sent me back home.**

Q. Who was your principal?

A. **Wymbs. I don't remember his first name, but it's W-Y-M-B-S. That was his name.**

Q. All right. Who was the next doctor that you saw about your back?

A. **Dr. Strong. He's over at the hospital at Regional.**

Q. Okay. And what did Dr. Strong tell you?

A. **He knew my problem was with my back, so he was giving me injections in the back. And I was doing -- I believe I was doing physical therapy also, but it was not helping.**

Q. Did Dr. Strong recommend the physical therapy or did another doctor recommend that?

A. **He did.**

Q. Okay. In 2009, did you see any other doctors besides Dr. Easterling and Dr. Strong about your back?

A. **Yes. Whatever was happening was not**

improving because Dr. Strong wanted me to see another doctor. So I ended up seeing a -- what you call it, a spinalogist.

Q. Okay.

A. **A specialist that deals with the spine, and his name is Senter, Robert Senter.**

Q. Where is he?

A. **He's at the St. Dominic Hospital.**

Q. All right. And in 2009 what did Dr. Senter do? Did you see him in 2009?

A. **Yes, I did see him. He did a whole set of x-rays and different tests on me. And he told me that it looks like I need surgery.**

Q. Okay.

A. **But he said since we're dealing with Workman's Comp he knows we have to go through all the procedures and exhaust stuff, so I went back to the regimen of injections, and he sent me right back to Dr. Strong, who is the pain management person, and I had more therapy.**

Q. Okay. Did you see any other doctors in 2009 besides Dr. Strong, Dr. Easterling and Dr. Senter for your back?

A. **Well, not in that time, but later on when everything was ruled out and it had come to the**

surgery part, I went to see a Dr. Ilercil for a second opinion before the Workman's Comp would agree to the surgery.

Q. Okay. You said Dr. Ilercil?

A. **Ilercil, yes.**

Q. Where was his office?

A. **He is located in Jackson also.**

Q. When did you go see him? And I don't need the exact date, just the time frame.

A. **I saw him sometime in 2010, a couple of months or so before the surgery.**

Q. Okay. How long were you off work in 2009/2010 school year?

A. **I was off two weeks. Wait a minute. 2009/2010?**

Q. Right.

A. **Yes, two weeks.**

Q. Okay. Did you receive any Worker's Comp?

A. **Very briefly during that time.**

Q. Okay. Do you know how much you received during that time, the 2009/2010 year, from Worker's Comp as far as the disability payments; not the medical benefits, but the disability payments?

A. **Maybe between four and six hundred; not entirely positive about that.**

Q. And that was for a period of about two weeks?

A. **Yes.**

Q. Okay. Did you have an attorney represent you on the Worker's Comp claim at that time, 2009/2010?

A. **No.**

Q. All right. Now from records that I saw from the District, you had requested some FMLA leave in July that was going to start going into effect when you had your surgery in August; is that right?

A. **Can you repeat it?**

Q. Okay. I saw a document from the school district that indicated that in July of 2010 you had notified them that you were going to need some FMLA leave that was going to start in August when you had your surgery. Is that how you remember that?

A. **I remember letting them know that I was possibly going to have surgery because when I spoke to my doctor he told me that the surgery was coming up but he didn't tell me exactly when because when you're dealing with Worker's Comp they are the one that set everything, you know.**

Q. Okay.

A. **But in regards to the leave, I really**

didn't have any idea what that was all about. Being the type of person I am, I wanted everything to be in order.

Q. Right.

A. **So that, you know, I was more concerned about the kids, me not being in the classroom, not in the position, you know, so I wanted everything in order before I was called out.**

Q. My understanding is that you were going to have your surgery in August of 2010?

A. **Correct, the 17th. And they told me about this two weeks before the surgery. I found out about the surgery two weeks before the surgery. Imagine that.**

Q. Okay. It's my understanding that you had a contract for employment. Let's see, I think I have a copy. I hand you this document, and I'd like you to take a look at it. Now I understand this to be your unemployment contract with the school district from 2010/2011; is that correct?

A. **Correct.**

Q. All right. And then this contract was signed by you on June 1st, 2010?

A. **Correct.**

MR. SCHRADER: All right. I'd like to

have this contract attached as an exhibit to the deposition.

MS. ROSS: No objection.

MR. SCHRADER: That will be Exhibit 2, I believe.

(EXHIBIT NO. 2 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Ms. Gray, I'm going to ask that you take a look at this contract. And I want to make sure that I'm clear on what this contract lines out. You signed this on June 1st, 2010; is that correct?

A. **Correct.**

Q. And your school year for the 2010/2011 school year was supposed to begin on August 2nd of 2010?

A. **Correct.**

Q. And you attended work on August 2nd?

A. **Yes, I was there on August 2nd.**

Q. Okay. And then I think I heard you say that your surgery was going to be on August 17th; is that right?

A. **Yes, that's correct.**

Q. Okay. From August 2nd to August 17th, do you recall missing any days, being out for illness or personal leave or anything like that?

A. I had the presurgery things that you have to do before surgery, I had to take a day for that.

Q. Okay. Do you know on what day that was?

A. It was right before then. I think it was about the 13th or the 14th.

Q. Okay.

A. It was a couple of days prior to the surgery they have to do the preadmit or something I think it's called.

Q. Okay. And so do you remember your last day to attend work prior to your back surgery? Do you remember that?

A. It was the day before the surgery. It was up to the day before.

Q. And where did you have your surgery?

A. St. Dominic's Hospital.

Q. And did Dr. Senter do that surgery?

A. Yes, he did.

Q. I understand that Dr. Senter took you off work and -- I understand that Dr. Senter let you know that immediately following the surgery you couldn't come back to work, right? He took you off work for a while?

A. Yes.

Q. We received -- and I'm not sure who sent

these to us. The district may have sent these to us, but I'd like for you to take a look at these documents and see if you recognize those as the slips you got from Dr. Senter explaining when you were supposed to return to work or when you were supposed to return to his office for evaluation?

A. Yes, uh-huh.

Q. Did you take these slips to the school district?

A. Yes. I gave them to Ms. Kavanaugh at the district office.

Q. Okay.

A. It's a matter of meeting with the doctor, and when I get one of those things I have it delivered to them.

Q. Okay. And you would turn these over to Ms. Kavanaugh?

A. Ms. Kavanaugh, Gail Kavanaugh.

Q. Gail. Okay. And what is her position at the district?

A. Well, actually, she does a series of things. I know she does the Workman's Comp thing and she does nutrition or something like that.

MR. SCHRADER: I'd like to have these doctor's slips attached as an exhibit to the

deposition. You have no objection?

MS. ROSS: No objection.

MR. SCHRADER: That will be Exhibit 3.

(EXHIBIT NO. 3 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Before we move on to the doctor's slips, I have a few more questions about the contract here as Exhibit 2.

A. Okay.

Q. Now in your employment contract for the 2010/2011 school year, you were going to be paid a total of $41,515; is that correct?

A. That's correct.

Q. And your contract period was going to be for 187 days; is that correct?

A. Correct.

Q. And that was going to begin on August 2nd and end on May 24, 2011; is that correct?

A. Correct.

Q. And at the time Dr. Price was the -- when you signed this in June 2010, Dr. Price was the superintendent; is that correct?

A. Correct.

Q. Okay. I'd like to go over these work slips that we have. Now I understand that you had your surgery on August 17th. And according to these

slips it looks like you went back to see Dr. Senter on September 3rd for a followup; is that correct?

A. Yes. I don't have what you have there, but --

Q. Let's see. It should be the same.

A. Oh, yes. Okay.

Q. On September 3rd it looked like you went back to Dr. Senter?

A. Yes.

Q. And he said that you'll be evaluated on October 15th, 2010, but you're supposed to be off work until that time?

A. Correct.

Q. Okay. After your surgery, you begin receiving Worker's Comp benefits; is that correct?

A. Yes, correct.

Q. Okay. Were you getting paid every week or every month or how were you getting paid by Worker's Comp?

A. Twice a month.

Q. Twice a month.

A. Uh-huh.

Q. And how much were you getting paid each pay period from Worker's Comp?

A. 800 and -- I think it was 828.

Q. 828 every two weeks?

A. Uh-huh, I believe so.

Q. Do you have any documents in your personal records that would reflect how much Worker's Comp was paying you?

A. Yes. I got it in the car.

Q. Okay. After your surgery and you were going to be out on Worker's Comp, did you hire a Worker's Comp attorney to help you with that claim?

A. Not right away.

Q. Okay. But at some point, did you?

A. Yes, toward the latter part.

Q. Okay. What attorney helped you with that?

A. First, I went to Sutherland here, and then she turned me over to someone called -- his name is -- I have all that information in the car. He's out of Columbus, Mississippi. Shane Tompkins. That's the name. That's the attorney out of Columbus.

Q. All right.

A. So, basically, they were my attorney, but they turned me over to him so they got whatever, you know, I don't know whatever kind of agreement that they had.

Q. Okay. And the checks you were getting from Worker's Comp for 828 every two weeks, were those coming directly to you or did they go directly to your attorney's office?

A. Directly to me.

Q. And so you would have received that between August 2010 until you went back to -- at least until you went to Dr. Senter in October of 2010 and he kept you off work again, correct?

A. Repeat that again.

Q. Okay. That's probably a bad question. When did you begin receiving your Worker's Comp benefits?

A. The end of August or early September of 2010.

Q. All right. And then on the first page of that Exhibit 3, Dr. Senter kept you off work until you were to return back on October 15, 2010; is that correct?

A. Correct.

Q. And then the next one I have shows that Dr. Senter saw you again on October 15, 2010, and kept you off work until January 3rd of 2011; is that correct?

A. Correct.

Q. Okay. Between October 17th, 2010, and January 3rd, 2011, did you attend any work at Vicksburg Warren School District?

A. No.

Q. The next slip we have from Dr. Senter's office shows that you went to see him January 3rd, 2011, and he kept you off work until he saw you again on March 7, 2011; is that correct?

A. Correct.

Q. And between January 3rd, 2011, and March 7th, 2011, did you attend any work at the Vicksburg Warren School District?

A. No.

Q. The next document I have shows that you went to see Dr. Senter on March 7th, 2011, and he indicated that you would be off work until you were re-evaluated on June 6th, 2011; is that correct?

A. Correct.

Q. And did you do any work between March 7th 2011, and June 6th, 2011?

A. No.

Q. And the last one that I have shows that you went to see Dr. Senter on June 6th, 2011, and he indicated that you were ready to go back to work, but that you could lift no more than 40 pounds; is that

correct?

A. Correct.

Q. Okay. And did Dr. Senter give you this while you were at his office?

A. Yes.

Q. All right. So, as I understand it, your last date for the 2010/2011 school year was the day before your surgery?

A. Correct.

Q. That would have been August 16th?

A. Correct.

Q. All right. Now my wife is a fourth grade teacher at Beachwood, so I kind of have an understanding of how the teachers get paid. But I want you to make sure that I'm clear about that. This is the contract that we discussed earlier. Now the way that I understand it is y'all are paid for 187 days of work but, so that you don't have months that you don't have income, they stretch that over a 12-month period; is that correct?

A. Correct.

Q. Okay. So the way that I understand it is the school district would take your $41,515, divide that by 12, and that would be your gross income per month?

A. **Correct.**

Q. Okay. Now taking your salary of $41,515 and dividing that by 12, that would be a gross salary of $3,459.58. Is that how much your gross paid is?

A. **The gross, yes.**

Q. Okay. And that was before tax-holdings or insurance and things of that nature?

A. **Yes.**

Q. Okay. Now when you had your surgery in August 2010, did you receive a paycheck at the end of August from the school district?

A. **Yes.**

Q. Okay. How much was that?

A. **I believe it was around 8 something, 800 and something for the two weeks that I worked.**

Q. Okay. Now 800 and something, would that have been your gross salary less any taxes and withholdings only for the days that you had worked?

A. **Correct.**

Q. According to the human resource department up at the school district, they indicated that you had worked a total of nine days in August. Does that sound right to you?

A. **Yes.**

Q. Okay. Did you receive a paycheck from

the school district at the end of September?

A. **No.**

Q. Okay. When you started the school year in 2010/2011, are you aware of how many days of sick leave you had available to you?

A. **No. I think it was about maybe 12 to 15. I'm guessing. I think it was about 17 actually.**

Q. Okay.

A. **I believe it was 17.**

Q. Would that 17 have included your personal leave as well, sick and personal leave?

A. **Yes.**

Q. While you were out after your back surgery, did you have occasion to speak with anybody up at the central office about how many sick days or personal days you had available to you?

A. **No.**

Q. The way that I understand your employment contract is the school district -- that you promised the school district that you would work for 187 days and they would promise to pay you $41,515.00. Is that how you understand that arrangement to be with the school district?

A. **Yes.**

Q. Okay. And that they would pay you over

the course of the entire year instead of just the nine months that you worked. Is that how you understand it?

A. **Correct.**

Q. Now according to your contract, the contract was supposed to end on May 24, 2011. And you weren't released back to work until after that; is that correct, June 6th?

A. **Yes.**

Q. Okay. Your contract had been renewed every year since 2004?

A. **Correct.**

Q. Now, typically, it's my understanding that in March or April letters go out to the teachers -- letters of intent for the teachers to sign to see if they intended to come back the following year?

A. **Correct.**

Q. Okay. Did you ever receive a letter from them?

A. **Yes.**

Q. Okay. In the years past when you have signed the letter of intent or gotten the letter of intent, how would they have delivered those to you? Did they mail them to you or did they bring them to

you at the school?

A. **Well, originally, they would bring them to you at the school if you were at the school. Since I was always at the school I have no idea how they, you know, dealt with people who were not there when the letters came.**

Q. Okay. Do you recall exactly when these letters would typically come out, which month it is?

A. **Those type of letters come out like right after Christmas, around Christmas, the first month of the new year which would be about January.**

Q. And as I understood you to say that since you were always at the school you just got your letter at school when they would bring them by to the school that you were working at; is that it?

A. **I would receive this from the principal or they would say come to the office and the secretary would have the letters of intent.**

Q. Okay. And had you ever heard of the school district mailing out letters of intent to teachers that were not at school the day that the letters came to the school?

A. **I never heard of that. I never had to deal with that situation.**

Q. Now I understand that you were out on

your sick leave during this time that you typically would have received the letter of intent, but since you weren't at school you didn't get one.

MS. ROSS: I'm going to object to form. She was out on Worker's Comp. I don't know that she was out on sick leave.

Q. (By Mr. Schrader) Okay. While you were out attending to your back injury, you weren't able to get your letter of intent while at school; is that right?

A. No.

Q. Okay. Did you ever call to the school and request a letter of intent for you to sign?

A. No.

Q. Okay. Did you ever at this point prior to May 2011, did you ever provide any written notification to the school district that you intended to return for the following school year?

A. No.

Q. Now at the end of the school year, you were still out on your -- the doctor still had you off work; is that correct?

A. Yes.

Q. And were you still receiving Worker's Comp at the end of the school year?

A. When you say at the end of the school year, you mean --

Q. The end of May?

A. Yes.

Q. You were still getting your Worker's Comp?

A. Yes.

Q. Okay. Did you receive Worker's Comp benefits up through June 6th, 2011?

A. Correct.

Q. Okay. Do you know the total amount of Worker's Comp that you received between August 17th, 2010, and June 6th 2011?

A. No.

Q. Okay. Do you have any documents that would indicate that?

A. Yes.

MR. SCHRADER: Would you provide those documents to your attorney and let her take a look at them before -- we're going to request those documents through a formal request, but if you would get those ready and provide those to your attorney I would appreciate it so that we would have an idea of exactly how much Worker's Comp you received.

Q. (By Mr. Schrader) Now I understand that you were out on your FMLA leave at the same time of receiving your Worker's Comp benefits; is that correct?

A. Apparently, yes.

Q. Okay. Are you aware when your FMLA leave expired?

A. No.

Q. Did anybody at the school district ever provide you any notification when your FMLA leave was to expire?

A. No.

Q. Did you ever have occasion to go to central office to inquire as to whether or not you would have a job for the fall of the year?

A. Yes.

Q. Okay. When did you do that?

A. I made a phone call. Actually, while I was out on medical leave, I would keep in contact with the office with not just the stuff from the doctor and what have you, but I was reported to -- that I had to see a Ms. Johnson, I don't know her first name, and I think that's her secretary's came in and said that she was going to be dealing with me in reference to my situation.

Q. Okay.

A. And I called and I made an appointment to see her, and I went in to see her and she told me that since I was already on medical leave, she didn't have anything definite to speak with me about. But she did say that when I get my medical release from the doctor I must make an appointment to come in and see her and she would speak with me then. But as far as she can see in my file that all I needed was a placement to go back into the classroom and she will discuss that with me when I get my release from the doctor.

Q. Okay. Was all that discussed during one telephone call?

A. No. That was in person. I spoke to her and I went in to see her after I made an appointment to see her, and that was discussed when I made the appointment to see her. And that was like two weeks and a half prior to the doctor's release, which was the 6th of June.

Q. Okay. The 6th of June was when you were released from the doctor?

A. Right, but I spoke with her about two and a half weeks prior to that date.

Q. Now while you were out between

August 17th and June 6th, did you talk to anyone else other than Ms. Johnson about your intent to come back to teach, anyone else at the school district?

A. I kept in contact with my principal from August 9th to December of 2009 because I was told that since he was my administrator, my supervisor, immediate supervisor, I was to keep in contact with the school and him to let them, you know, be aware of what was happening to me in my case. So, yes, I did. It was Dr. Wiggins.

Q. Dr. Wiggins?

A. Yes.

Q. Dr. Wiggins, was he the principal of --

A. WCI.

Q. WCI?

A. Yes.

Q. Okay. And your contact with Dr. Wiggins would have been between August and December 2009?

A. Right, right.

Q. Okay. After December 2009 and your meeting with Ms. Johnson, did you speak with anybody else up at the school district about your intent to return to work?

A. Well, after that I also spoke between, I left messages with his secretary. Sometimes I didn't get Dr. Wiggins. But between that time, no, because I personally felt that they knew I was interested. I was bringing in my releases and everything. I mean, I showed an interest actually.

Q. And how many meetings did you -- before June 6th, how many meetings did you have with Ms. Johnson?

A. One. I had one.

Q. And she informed you that once you were released back to work that you needed to bring that back to the school district and they would see about finding a place for you with the school district?

A. Yes, uh-huh.

Q. And then you went to see Dr. Senter on June 6th?

A. Uh-huh, yes.

Q. He released you back to work; is that right?

A. Correct.

Q. Okay. Now after you were released from work, did you have occasion to talk to anybody at the school district about teaching the following school year?

A. Okay. Yes and no. I can explain.

Q. Okay. That would be great.

A. After I got the release from Dr. Senter, I tried to get in contact with Ms. Johnson just like she stated. Now you can't just go and see her. You have to make an appointment to see her. I tried to make an appointment with her secretary and her secretary said she can't make appointments for her. She has to make them herself.

Q. Okay. Who is Ms. Johnson's secretary?

A. I have no idea. I don't know her. I heard her voice on the phone.

Q. Okay.

A. I called and spoke with her like a week trying to make an appointment but never did speak to her and she never returned my call. One day out of the blue, Charlotte Grant -- she works in the personnel office and she works also with Ms. Kavanaugh, informed me on the phone that if I wanted to seek a teaching position in the district, I need to reapply in order to be considered for a teaching position.

Q. Okay. Do you remember when you spoke with Ms. Grant?

A. Not the exact date, but I know it was like a week and a half after the date of the 6th of June.

Q. Okay. Did she tell you anything that you would need to submit for consideration in being rehired?

A. She said to reapply.

Q. Reapply.

A. So I took that as resume, everything, you know, when you are reapplying for a job.

Q. Okay. Did Ms. Grant ask you for a copy of the return to work slip?

A. No, she did not.

Q. Okay. And had you provided the school district with a copy of that prior to hearing from Ms. Grant?

A. Not at that time.

Q. Okay. What did you do after Ms. Grant informed you that you would need to reapply for employment?

A. Okay. I went and I got my resume together and all that I needed to reapply. I took the package to the district office.

Q. Okay.

A. And I took a copy of each to several schools to their offices for the principals because sometimes principals have interviews and choose who they want to come. That's what I did. I also at

that time I did turn in the release form to Gail Kavanaugh.

Q. Okay. So you would have given the release to Gail Kavanaugh?

A. **Yes.**

Q. Okay. Do you remember the date that you gave that release to Ms. Kavanaugh?

A. **No, I'm sorry.**

Q. Do you remember the month?

A. **It was June. It was just after I got that phone call, actually. I was trying to get everything back in order. So I would say about the third week of June, but it took me a week to get in contact with them to tell me this stuff and a week after that I got everything in order.**

Q. Okay. So you would have given that slip, Dr. Senter's return to work slip, to Ms. Kavanaugh?

A. **Yes.**

Q. Did you give her a copy or an original?

A. **I believe I gave her the original. I kept the copy.**

Q. Okay. Did you make the copy at home or had them make it up at the central office? Where did you get your copy?

A. **I made my copy at my house.**

Q. So as you remember it, you provided the return to work slip around the third week of June to Ms. Kavanaugh?

A. **Correct. Can I interject something?**

Q. Sure.

A. **My intention was to give the return to work slip to Ms. Johnson that I was supposed to have a meeting that I never got.**

Q. Okay.

A. **So when I got this call saying about reapplying, I didn't see the sense at that time really because what was the point. But then I was informed by my attorney that I should have gotten it in.**

MS. ROSS: Excuse me. Don't get into what we talked about.

THE DEPONENT: Okay.

Q. (By Mr. Schrader) Did you receive any other telephone calls about your reemployment after June 6th?

A. **You mean after I give the --**

Q. Well, let me go back over the telephone calls that I was aware of. Prior to June 6th, you had spoken with Ms. Johnson before you were released to come back to work, right?

A. **Uh-huh, correct.**

Q. Okay. And after you were released you made efforts to schedule an appointment with Ms. Johnson to discuss with her your coming back?

A. **Correct.**

Q. And you weren't able to get in touch with her? She wouldn't return your calls.

A. **Correct, I left messages.**

Q. And then a week or two after that you received a call from Charlotte Grant letting you know that if you wanted a teaching spot that you needed to reapply?

A. **Correct.**

Q. And it's my understanding that after that telephone call that you got your resume and other information together. Did you submit that to the central office or just to the principals?

A. **To the central office, the personnel and to the principal.**

Q. Okay. Did you meet with any principals for interviews?

A. **Nobody contacted me. Nobody.**

Q. Okay. Other than Mrs. Grant and Ms. Kavanaugh, did you speak with anybody else over at the central office about your desire to come back to work for the following school year?

A. **Well, Ms. Johnson was aware I wanted to come back. Apparently, I don't know -- she didn't want to discuss it since I was still on medical leave. I don't know what was the reason. But she told me when I get the release to come back, and that from what she sees in my file all I need is a placement to be placed in the school and we would discuss that when I get my release. That was my understanding.**

Q. Now while you were out on Worker's Comp or when you were missing work due to your back injury, did the school district maintain your health insurance?

A. **Yes, but there was a portion that I had that was extra, and every month I would send a check to Ms. Adams. She was over the insurance, and I would send her a check for my portion every month.**

Q. Okay. Now the portion that you had to pay, was that for spouse or for children?

A. **No, that was dental, eyes and all that.**

Q. Okay. That was your portion that you kept up with and then the school district was continuing to pay the premium to keep you covered under their plan?

A. Correct.

Q. How did you provide these -- let's go back through them one by one. The last one has the return to work slip on June 6th, 2011. And as I understand it, you gave this to Ms. Kavanaugh at the school district?

A. Uh-huh.

Q. On the other ones throughout the year from September 3rd, October 15th, January 3rd, and March 7th, how did you send these?

A. Those were hand-delivered.

Q. Hand-delivered to central office or to your principal?

A. Hand-delivered to the central office.

Q. Okay. All of these were hand-delivered?

A. Yes.

Q. Okay. And were you also hand-delivering your medical record information, the information that Dr. Senter signed saying that this was a certified emergency. Did you hand-deliver that to central office or did he send that in?

A. I have no record of that so I believe he probably sent that in.

Q. Okay. What other documents would you provide to the school district while you were out

attending to your back injury, what other documents besides these return to work slips would you have brought up to central office?

A. That's it.

Q. Just these return to work slips, okay.

A. That's all that was given me, actually.

Q. And did I understand you correctly to say that you never had occasion to provide any written notification to the school district that you intended to return. You didn't write them a letter saying I would like to return or anything like that?

A. No.

Q. Okay. Just your calls you would make?

A. Sometimes I would call and speak on the phone to Ms. Kavanaugh or Ms. Grant, you know.

Q. Okay. Do you know if you have ever been paid for your sick leave or your personal leave that you had built up with the school?

A. I'm unaware.

Q. Okay. The information that I got from central office indicates that in August and September you were paid a total of -- this is your gross income. This is before taxes and all that, gross payments made by the school district were $4,699.80.

A. For which months?

Q. For August and September?

A. Of 20 --

Q. 2010. Does that sound right to you?

A. No, it does not.

Q. Okay.

A. They were taking stuff and putting it in your direct deposit.

Q. Okay.

A. I wasn't getting any kind of slips or any forms. I think you normally suppose to get like a form that says something when something is deposited. I didn't get anything from them. I was down in bed for months, so, no. And I don't recall that kind of money.

Q. Okay. Do you have any idea how much money was -- well, let me go back. When my wife gets paid she gets paid direct deposit. Is that how you would receive your paychecks?

A. Yes.

Q. Okay. And even in August of 2010, your salary was direct deposited into your checking account?

A. Correct. At that time they would give us a slip. That was with Dr. Price.

Q. Okay. And was that slip like in your

mailbox at school?

A. Or they would mail it to you at your house.

Q. Okay. Do you have any record that show how much money was deposited into your checking account. I'm presuming that it was your checking account. Did your paychecks go into your checking account or savings account or what kind?

A. Checking account.

Q. Checking account. Do you have any documentation showing how much you received from the Vicksburg Warren School District between August 2nd, 2010, and May 24, 2011?

MS. ROSS: Her account would show it.

A. Well, it would show it. I might have to go to the bank and get that. Because I think after a certain amount of time when you go online -- because I tried to do that, but it says after a certain amount of time you can't.

Q. (By Mr. Schrader) What bank do you use?

A. Trustmark.

Q. And you still use that same account that was open during that time?

A. Correct, uh-huh.

Q. So as we sit here today, you don't know

if you've ever been paid for your sick leave or your personal leave?

A. **I'm not sure.**

Q. Okay.

MR. SCHRADER: And I forgot to tell you when we first started, if you need a break for anything, please let me know and we'll be able to take a break if you need it.

Q. (By Mr. Schrader) The next document I would like you to take a look at is the complaint that was filed in this lawsuit. If you'll take a look at that for a moment, I've got some questions about that. Do you recognize this as the complaint that initiated your lawsuit against the school district?

A. **Yes.**

Q. Okay. Prior to it being filed, did you have the occasion to review it, to understand what it was saying and what it was asking for?

A. **Yes.**

Q. All right. I see up in the top right-hand corner that it indicates that it was filed on July 18th, 2011?

A. **Correct.**

Q. All right. And could you just give me an

idea of what prompted you to file the lawsuit against the school district?

A. **Okay. What prompted me was the run-around I was receiving after I got my medical release from the doctor. Because I have never been in a situation like this before. I didn't know what the logistics was or what the protocol was, but I thought that I did everything in my -- whatever I thought was correct. I gave my medical releases, whatever the doctor gave me I was presenting, whatever was happening with Worker's Comp or whatever was happening with my back was sent to Worker's Comp, which was with the district. I gave her copies of everything what was going on. By me keeping in contact with the district with what I was doing, I assumed that showed interest to continue working as an employee. So after dealing with Ms. Johnson and not dealing with her or her not dealing with me to me the way I felt I should have been dealt with, given this phone call if I wanted to be considered as an employee I had to reapply, I had no other choice but to seek action of an attorney.**

Q. Okay. Do you remember when you submitted your resume and other information for consideration for reemployment?

A. **Yes.**

Q. When was that?

A. **Right after I spoke with Ms. Grant on the phone and she told me that.**

Q. Would that have been in June or July?

A. **That was in June, the same month. I did everything really back to back. At that time I was waiting to hear back from Ms. Johnson, actually. I keep calling leaving messages, calling leaving messages. I spoke with her secretary, but her secretary tells me she cannot make her appointments. And then I finally got this call from Ms. Grant telling me this stuff, so I just said, okay, you know. I did what I felt I had to do.**

Q. What other information would you have submitted to the district other than your resume when you went up to the district to provide them with reemployment, the other information?

A. **I think I may have had a cover sheet, I think. That's what I gave the schools also.**

Q. Okay. Did you follow up with anybody in July about potential employment with the school district?

A. **The Vicksburg School District?**

Q. Yes, Vicksburg School District.

A. **Well, after giving my resume and my cover letter -- well, not to the district, but giving my stuff to different schools. I called several schools and I spoke to secretaries.**

Q. Several schools in the Vicksburg Warren School District?

A. **Yes. Several schools. I spoke to Warren Central Jr. High, Vicksburg Jr. High, and I received no -- anything. No phone call, letter, nothing. Nothing. I received no word whatever by the mail or telephone from the central office, because they're in positions also where they can send you to a school without having to go to the principal. I heard nothing. Absolutely nothing.**

Q. Okay. What grades are you certified to teach?

A. **I am certified to teach grades four through eight.**

Q. Okay. And while you were out with your injury, did you keep up with your CEU's to maintain your license? How often do you get re-licensed?

A. **Every five years.**

Q. How often do you renew your license?

A. **It's due in 2013, so I still have some time to get what I need to get together.**

Q. Would you take a look at paragraph 9 of your complaint there, and I would like to ask some questions about this paragraph. It indicates -- I'm going to read this and I'd like you to tell me if I'm reading this right.

(Reading) In June 2011 after Gumbs-Gray's physician released her to return to work, she contacted school officials and was told that she should submit a resume and letter of intent in order to be considered for employment. The school official that you were talking about there, would that be Ms. Grant?

A. Correct.

Q. Okay. And then the next sentence says, (reading) School officials failed to pay Gumbs-Gray salary for the months remaining on her contract after she was released from the doctor's care. Did I read that correctly?

A. Correct.

Q. Okay. How much do you contend that the school district should have paid you that they hadn't already paid you before?

A. Okay. The 3,000 and change that you told me about monthly without tax taken out times two or less a little for the one week. So that amount times

two less one week.

Q. Okay. So that would be the month of June and July of 2011?

A. Correct.

Q. Less one week. Okay. Now we talked earlier about you had received a paycheck at the end of August; is that right?

A. Yes.

Q. Okay. And during August you worked about nine days?

A. About.

Q. Okay. And that you didn't work any other days throughout the year. Okay. Now other than those nine days, did you do any work to earn that salary that you claim that you're owed?

A. I didn't work.

Q. Did not work. Okay. Do you contend that you worked days during the 2010/2011 school year that you were not paid for?

A. I don't quite understand. Can you rephrase that?

Q. Sure. Did you work any days in 2010/2011 that you were not paid for?

A. No.

Q. So can you explain why the school

district would need to pay you for June and July when you didn't provide any teaching days to earn that salary?

A. I was under contract. I was hurt on the job working for them, no fault of my being injured on the job, had no intention of being out all that time, but due to the type of surgery that I had, I had no other choice. I would have been on my job doing my job if that did not occur.

Q. While you were out with your back injury, you received Worker's Comp payments, correct?

A. Correct.

Q. And the amount of that was $828 every two weeks?

A. Correct.

Q. Okay. At the end of every month -- let's go back to the prior school year, 2009/2010. You would get paid once a month, correct?

A. Correct.

Q. And that would be at the end the month?

A. Correct.

Q. The last business day of the month?

A. Correct.

Q. And that was direct deposited into your account?

A. Correct.

Q. What was your typical paycheck every month in 2009/2010?

A. You mean with taxes taken out?

Q. Yes.

A. It would be about $2,300.

Q. $2,300?

A. Give or take, about that.

Q. And back in the year of 2010, the school year of 2010/2011, your contract called for you to work 187 days and in return they would pay you $41,515; is that correct?

A. Correct.

Q. And you worked nine of those 187 days; is that right?

A. Right.

Q. So you missed 178 days on your contract; is that right?

A. Correct.

Q. And as we sit here today you feel that the school district should pay you for days that you didn't work; is that right?

A. Well, when you put it in those words, but since I was injured on the job, I do, yes. I do.

Q. And you received payments while you were

off through Worker's Comp, right?

A. **Through Worker's Comp, yes.**

Q. So even though you weren't working those 178 days, you were getting paid?

A. **Paid, but not my salary.**

Q. Okay. How much less were you being paid than what you would have earned if you had worked those 178 days?

A. **Okay. Say that again.**

Q. How much less were you being paid than you would have made if you had worked the 178 days?

A. **Okay. If you multiply 828 times two and you subtract that from 3,000 and change, whatever difference that would be. I have no idea what that would be.**

Q. So the 3,000 you're talking about is the $3,459.58; is that right?

A. **Correct.**

Q. Okay. And that would be your monthly salary before taxes?

A. **Correct.**

Q. Okay. They will withhold your taxes, and they would withhold whatever withholdings that they needed to give you your net pay?

A. **Correct.**

Q. And as we sit here today you can't recall the exact amount of your net pay that would have been paid?

A. **You mean from the district?**

Q. Yes.

A. **I thought I had that with me, but I do not.**

Q. Okay.

A. **Not that what I have is up to date, but that's the last thing.**

Q. Okay. What is your current salary?

A. **My current salary?**

Q. Yes. Is it $42,010?

A. **Uh-huh.**

Q. So as we sit here today one of the elements that you're asking the court to award you is two months of your gross salary less the first week in June; is that right?

A. **Yes.**

Q. Do you have a total number for the amount of wages or salary that you're asking for?

A. **Whatever it would have been for those two months less the one week.**

Q. And you do agree that out of the 187 days that you were supposed to work, you only worked 178

of those days; is that correct?

A. **Repeat?**

Q. Out of the 187 days that you had agreed to work, you only worked 178 of those days; is that correct?

A. **No.**

Q. Okay. How many days of the 187 days under your contract did you work in that school year?

A. **Nine.**

Q. Okay. Nine?

A. **Uh-huh.**

Q. So, if I subtract nine days from 187, that leaves 178 days that you didn't work during that year, correct?

A. **Correct.**

Q. Okay. Now have you ever gone a period of time where you had taken off more days than you were allotted for your sick leave or personal leave in the seven years that you had been employed by the school district? Did you ever miss more days than you had paid time off?

A. **No. This was the first time.**

Q. First of all, how did you learn that the district had not planned on or had not made arrangements for you to have a contract for the

2011/2012 school year? How did you learn that?

A. **After receiving the phone call from Ms. Grant.**

Q. And at that time did they tell you that they were not going to hire you?

A. **Well, the wording that she said led me to believe that I was not going to be hired. Because if I had to resubmit an application and I been working with you for years, that tells me I don't have a job.**

Q. Did you receive anything else that would indicate that they planned not to hire you back other than the telephone call?

A. **The telephone call and something in the mail from the insurance telling me that effective July 31st my insurance was going to be terminated.**

MR. SCHRADER: Before we go any further, can I get the complaint attached as an exhibit to your deposition. I believe that's going to be Exhibit No. 4.

MS. ROSS: No objection.

(EXHIBIT NO. 4 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Is this what you received in the mail that you were talking about. If you will take a minute to look through that.

A. **There was another document that I**

received from the insurance company that's not here that states that my insurance was going to be terminated. I received this, but there was something else that I received from the insurance company.

Q. Okay. The other document that you're talking about didn't come from the school district. It came from an insurance company?

A. That's correct.

Q. All right. And what insurance company?

A. Blue Cross/Blue Shield.

Q. Okay. When did you receive the document from Blue Cross/Blue Shield?

A. Sometime during the month of July.

Q. Do you remember what part of July that you received that?

A. It probably was June. I have copies, but I didn't bring it with me.

Q. Okay.

MS. ROSS: I thought we produced it in the prediscovery disclosure. But if not, we will give you a copy of it.

Q. (By Mr. Schrader) Did you receive any other written notification that you were not going to be reemployed for the 2011/2012 school year?

A. No.

Q. Okay. Now, as I understand it, the only written documentation that you received notifying you that you were not going to be reemployed was the document from your insurance company and the letter that was sent -- let me just scratch that question.

Now Ms. Ross indicated that in the prediscovery disclosures the document from the insurance company was supposed to be attached. And what I have listed here on your prediscovery disclosures is the State and School Employees' Health Insurance Plan Continuation Coverage Election Notice.

MS. ROSS: She didn't prepare that document, so I would object to that.

Q. (By Mr. Schrader) Right. So I'm going to ask if the State and School Employees' Health Insurance Plan Continuation Election Notice, is this document here the one that you would have received from the insurance company?

A. I received that from Ms. Adams. I believe she sent that to me. I don't believe I got it from the insurance company. It was another document from them telling me, yes, I been under their plan since 2004, and effective July 31st, 2011, that I've been terminated. I got this one, and I received the other one I'm telling you.

Q. Another one. Okay. All right. And what confuses me at this point is that in the initial disclosures, the document listed is the State and School Employees' Health Insurance Plan Continuation Coverage Election Notice.

MS. ROSS: And we told you that the document that she's talking about is two different documents, and we will provide the document. The one-page document that she received that let her know that she had been terminated and giving her notice of her COBRA rights. And you don't get a notice of COBRA rights unless you've been terminated.

Q. (By Mr. Schrader) And that's a letter different than the one that the school sent you?

MS. ROSS: That's right.

MR. SCHRADER: Okay. I got you.

A. And we're talking about that one that the school sent me? That's what you're saying.

Q. (By Mr. Schrader) Right.

A. Okay.

MR. SCHRADER: Let's get this one marked as Exhibit 5 so that I don't confuse myself. Do you have any objections to that?

MS. ROSS: No objections.

MR. SCHRADER: Okay. We'll get that marked. I think that will be Exhibit No. 5.

(EXHIBIT NO. 5 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) I'm going to hand you what's been marked as Exhibit No. 5. And if you will take a look at this, and I want to make sure my understanding is correct. This package of documents is what you received from the school district?

A. Yes.

Q. You received other information from Blue Cross/Blue Shield?

A. Correct.

Q. Okay. And it was your understanding or your recollection that the documents you received from Blue Cross/Blue Shield were dated in June?

A. Correct.

Q. Now upon your learning that you would need to reapply for employment, did you have any occasion to contact the Vicksburg Warren School District school board about your concerns you were not going to be reemployed?

A. No.

Q. Is there a reason why you didn't contact the school board?

A. I have never been in a situation like

this before. I had no idea what the protocol was.

Q. Did anyone ever suggest to you that you needed to speak with the school board about getting a contract for the next school year?

A. **No.**

Q. Okay. None of your teacher friends or anybody at the school?

A. **No.**

Q. In the complaint that was filed starting on paragraph 8 of the complaint on page 3. And I'd like you to follow along with me if you will. It says, (Reading) In Mississippi certified teachers who have been employed by a school district for at least two years, are entitled to notice and a hearing before they can be suspended or terminated and/or their contract can be non-renewal. Did you ever receive any other written notice other than the COBRA information?

A. **No.**

MS. ROSS: Well, let him finish his question before you answer.

Q. (By Mr. Schrader) All right. As we sit here today I understand that you received a packet from the school district letting you know that if you wanted to continue your health insurance you would

need to pay the COBRA premiums. You also received a letter from Blue Cross/Blue Shield providing you information about what to do to continue your coverage; is that right?

A. **Correct.**

Q. Okay. Other than those two documents, did you receive any other documentation indicating that you were not going to be renewed for the 2011/2012 school year?

A. **No.**

Q. Okay. Did anybody at the school district ever tell you that you would not be rehired for the 2011/2012 school year?

A. **No.**

Q. Okay. When you came to believe that you were not going to be rehired, did you do anything to request a hearing as to whether or not you were going to be renewed?

A. **No.**

MS. ROSS: Objection. I mean, she's not required to request a hearing until she's put on notice that she's being non-renewed or suspended or terminated.

Q. (By Mr. Schrader) Okay. You received two letters, one from the school district and one from

your insurance company. And after reading those two letters it was your understanding that you were not going to be renewed, your employment was not going to continue to the 2011/2012 school year; is that correct?

A. **Yes.**

Q. At that point was it your belief that you were not going to be rehired?

A. **That along with the phone call I received from Ms. Grant, yes.**

Q. Okay. And after that did you request any hearing to reconsider any decision that was made not to rehire you?

A. **No.**

Q. Okay. Do you have any knowledge that any of your attorneys ever contacted the attorney for the school board to discuss whether or not you would be rehired for the 2011/2012 school year?

MS. ROSS: Objection to what her attorney did. That's privileged information and also the law does not require her to do any of these things. The burden is on the school district, so she's not going to answer any questions about what I did.

Q. (By Mr. Schrader) Other than what your

attorney has told you, do you have any independent knowledge as to whether or not your attorney ever spoke with the attorney for the school board to discuss whether or not you're going to be rehired?

MS. ROSS: That's not what the law requires, and I'm going to direct her not to answer that.

MR. SCHRADER: Under What privilege?

MS. ROSS: I think that's irrelevant. It's irrelevant. Show me any statute that says that the attorney is supposed to do those things, any basis for that.

MS. SCHRADER: I'm not saying that they're required to. I'm just asking if that happened.

MS. ROSS: Well, I can tell you no, and that she's not required to do it.

MR. SCHRADER: Okay.

Q. (By Mr. Schrader) In the complaint on page 4, paragraph 12 it reads: Plaintiff contends that she had a clearly established right to a due process hearing prior to being removed from her teaching position. Did I read that right?

A. **Yes.**

Q. Okay. Did you do anything to request a

due process hearing?

A. No.

Q. All right. What has the school district done to deny you the right to a due process hearing during which would be discussed your employment for 2011/2012?

MS. ROSS: Objection. That calls for a legal conclusion, and I direct her not to answer that. I mean, you know what they did. They didn't give her notice that she was being removed. That's what triggers her right to request a hearing. But it calls for a legal conclusion. That's attorney's writing. That's not her.

Q. (By Mr. Schrader) Are you aware of anything that the school district did to deny you the opportunity to have a due process hearing?

A. I don't understand.

MS. ROSS: Objection. It's calling for a legal conclusion, and she just told you she doesn't understand the question. You know what the statute says and I know what the statute says is supposed to happen before she's relieved of her duty and told to reapply.

Q. (By Mr. Schrader) All right. In response

to that, the statute indicates that if the school district or superintendent desires not to renew employment of a teacher that they give that teacher written notice and they give that teacher an opportunity for a due process hearing, if that doesn't happen, then the school district, the school board shall provide a contract for employment for the following year. Are you following me so far?

A. Yes.

Q. Okay. You did receive an employment contract for the 2011/2012 school year; is that correct?

A. Correct.

Q. All right. When did you get that?

A. August 4th of 2011.

Q. I'm going to hand you this document and I would like you to tell me if that's that contract that you received for the 2011/2012 school year?

A. It is.

Q. All right. Now you signed this contract on August 4th?

A. Yes.

Q. And you have been teaching for this school year?

A. Correct.

Q. Okay. Now in your complaint in your lawsuit you're asking that the court enjoin the defendants from violating your Constitutional and protected rights and also award the contract for the 2011/2012 school year; is that right?

A. Correct.

Q. Okay. And now you have your contract for the 2011/2012 school year?

A. Correct.

Q. Okay. So you're still asking the court for that contract?

MS. ROSS: She asked them for it when it was filed on July 18th because she hadn't received it. So, of course, that would be done now.

Q. (By Mr. Schrader) Okay. So you're no longer asking the court for that one; is that right?

A. Correct.

MS. ROSS: It's already happened.

Q. (By Mr. Schrader) And you're also asking the court for your attorney's fees, cost and expenses of litigation?

A. Yes.

Q. Okay. How much have you paid your attorney to represent you in this case? Okay. If

you're going to be asking for it at trial.

MS. ROSS: $7,500 retainer.

Q. (By Mr. Schrader) All right. Is there anything other than the $7,500 that you have paid?

MS. ROSS: The filing of the complaint, serving the complaint.

Q. (By Mr. Schrader) Okay. What we're here today for is for us to know exactly what it is that you're asking for from the court.

A. Okay.

Q. So $7,500 retainer fee. Is that refundable or nonrefundable?

MS. ROSS: I'm working. I'm still here so, I don't think so.

Q. (By Mr. Schrader) Okay. Has the $7,500 been entirely earned by your attorney at this point?

A. Yes.

Q. Okay. Do you expect to pay your attorney for that $7,500?

MS. ROSS: It's ongoing.

A. Yes, because it's ongoing.

Q. (By Mr. Schrader) Okay. Are there any outstanding bills you've received from your attorney that exceeded the $7,500 that you've already paid?

A. Not at this time.

Q. Okay. And the cost of filing this lawsuit. Do you know how much that is?

MS. ROSS: 350. I think 350, 375.

Q. (By Mr. Schrader) Okay. Are there any other attorney's fees, cost and expenses, other than the $7,500 retainer fee that you paid and the $350 filing fee?

A. No.

Q. So at this point that's all of your attorney's fees, cost and expenses for litigation; is that correct?

MS. ROSS: And the deposition today, cost of the deposition.

Q. (By Mr. Schrader) Okay. Deposition. So is that outside the $7,500 that you've already -- is the deposition cost outside of the $7,500 you've already paid?

A. Yes.

Q. And the attorney's fees that we can expect to hear about between now and trial, would those be on an hourly rate or fixed rate?

MS. ROSS: However the judge awards them. We will submit an hourly bill.

Q. (By Mr. Schrader) Okay. What's the hourly rate of your attorney, Ms. Gray?

MS. ROSS: That's going to be determined by the court. The court is going to decide what eventually it would be.

MR. SCHRADER: I expect that at trial, the plaintiff, Ms. Gray, will submit itemized billings to the court for consideration for payment?

MS. ROSS: No, no, not at trial. That doesn't happen at trial.

Q. (By Mr. Schrader) At the time that you request that your attorney's fees be paid, something will be submitted to the court explaining what charges you have incurred for attorney's fees. Is there a set hourly rate that you have agreed to pay your attorney to represent you in this matter?

MS. ROSS: She doesn't know the answer to that question. There is not a set hourly rate. We generally submit that to the court and ask the court to determine.

MR. SCHRADER: Submit what to the court?

MS. ROSS: We ask the court to determine the hourly rate in accordance with the rules of submitting two affidavits from two lawyers who's done work in this area who will say what my hourly rate should be.

Q. (By Mr. Schrader) Okay. So as we sit here today, Ms. Gray, your attorney has not presented you with an hourly rate that your attorney will expect to be paid for these proceedings?

A. No.

Q. Okay. Other than the contract for the 2011/2012 school year and the attorney's fees that you're asking for, is there anything else that you're going to ask the court for?

A. Okay. I'm not sure if I can ask this question or not, but after dealing with the way I was handled with Ms. Johnson and after running around after I got word of this termination because I applied to other places for jobs. I went on -- interviewed for jobs trying to find something else, looking for a job. I don't know if any compensation could be put toward that. I know I was injured on the job, and I did get Workman's Comp, but still the pain and suffering, I don't know if that's applicable.

Q. Okay. Is there a dollar amount other than the $7,500 attorney retainer fee, the $350 filing fee, the cost for this deposition. Is there any other dollar amount that you're going to ask the court for?

A. I would ask the leniency of the court on their behalf to see if any more is due.

Q. Okay. And what would be the basis for your asking that? What damages other than what we just discussed have you incurred?

A. Pain and suffering.

Q. Okay. Because of the injury at work?

A. Correct.

Q. Okay.

MS. ROSS: And the violation of her Constitutional right to due process.

Q. (By Mr. Schrader) Okay. And what dollar amount do you assign to the alleged violation of the Constitutional right to due process? What are you going to be asking for?

A. Whatever the court --

MS. ROSS: He wants you to assign a dollar amount, so take your time and assign a dollar amount. What amount do you want?

A. With everything or just the part with my Constitutional rights?

Q. (By Mr. Schrader) Just the part with your Constitutional rights right now.

MS. ROSS: It doesn't mean you're going to get it.

A. I know, I know.

Q. (By Mr. Schrader) But at this point this is our only chance to talk to you before trial. We won't be able to ask you any other questions face to face. And what we have to do is determine exactly what it is that you're going to be asking the court for when we show up at court. So far, what we have is you have asked for declaratory relief declaring for enjoining the defendants for violating your Constitutional protective rights and awarding you a contract for the 2011/2012 school year. And as we've discussed, that's already taken place. You signed the contract on August 4th for this year. So that's already been taken care of.

A. Right.

Q. And then the next item that you're asking for are attorney's fees, the cost and expense of litigation, which so far what I gathered from you was the $7,500 retainer free, $350 filing fee and whatever the cost for this deposition will be. Am I correct in that?

A. Correct.

Q. Okay. Now is there any other dollar amounts that you expect to ask the court to award you if this were to go to trial?

A. Besides what we spoke about?

Q. Yes, besides what we spoke about.

A. Like I said, the pain and suffering and my Constitutional rights.

Q. Okay. Now have you assigned a dollar amount to the value of the alleged violation of your Constitutional rights?

A. I can put a figure, okay. Let's go with a hundred grand.

Q. 100,000?

A. Uh-huh.

Q. Okay. And is that 100,000 because they didn't send you a letter letting you know that they weren't going to rehire you and not affording you the opportunity for a hearing?

A. Correct.

Q. Okay. 100,000 for that. And how did you come up with that $100,000?

A. Well, actually, I didn't have any opportunity to really think about it. That was thrown at me and I just gave a figure actually.

Q. So that I'm absolutely clear on what you're asking for as we sit here today is $7,500 for the attorney's retainer?

A. Correct.

Q. $350 for the filing fee?

A. Correct.

Q. Whatever this deposition is going to cost?

A. Correct.

Q. And a $100,000 --

A. And I want to change something --

Q. And a $100,000 because they didn't provide you written notice that you were not going to be reemployed?

A. Correct.

Q. Okay. Now you indicated that you wanted to explain something or change something.

A. Yes. Well, I wanted to add in something for pain and suffering.

Q. And that pain and suffering is only due to the --

A. The injury to my back.

Q. The injury to your back?

MS. ROSS: No, that's not related to it.

A. That's not related to that.

MS. ROSS: No. The pain and suffering is due to the violation of your Constitutional rights.

Q. (By Mr. Schrader) Okay. What pain and

suffering have you sustained as a result of the alleged violation of your Constitutional rights?

A. I had sleepless nights, I was under doctor's care for medical stuff for -- separate from Dr. Senter, another doctor that prescribed sleeping medication, anxiety.

Q. Okay. What doctor is that?

A. She served under Dr. Pierce. She's a Banks. She works right here in -- what they call it, Medical Associates.

Q. Okay. Is she a nurse practitioner?

A. Yes, that's what she is.

Q. Okay. When did you see her?

A. I was seeing her during that time and around that time when this was happening.

Q. Can you narrow that down to a month?

A. I saw her months prior to that, months after.

Q. Months prior to?

A. The dismissal and right after the dismissal -- well, I said dismissal. I feel like I was terminated and going through all of this stuff, trying to find a job.

Q. Okay. You said months prior to being terminated?

A. She was my regular person I would go to see from time to time.

Q. Okay.

A. She has record of my medical history.

Q. Okay.

A. And she knows what was prescribed before and after and during the situation with the school district.

Q. Okay. What medications were you taking before?

A. You mean that she gave me because of the situation?

Q. Yes.

A. Zantax, if I remember right, and Ambien.

Q. And was that prior to you being released back to work?

A. That was one day when I realized I was terminated. I was trying to get back.

Q. That would have been in late June when that was prescribed?

A. Yes, in June, yes.

Q. Had nurse practitioner Banks ever prescribed those medications for you prior to June?

A. No.

Q. Okay. Did you see any other medical service providers for your pain and suffering caused by the alleged violation of the your Constitutional rights?

A. No.

Q. Just nurse practitioner Banks?

A. Yes.

Q. Okay.

A. There was another doctor that worked with her. His name is Craft, but basically it was her. It was only between the two of them, but she was the main one.

Q. Brandon Craft?

A. Oh, you are aware of him?

Q. Yes, yes. Okay. Is there anything else that you're asking the court to award you at trial?

A. That's about it.

Q. Okay. So that I'm absolutely clear, you're asking for the $7,500 attorney's fee retainer, $350 filing fee, the cost of this deposition and $100,000 for the alleged violation of your Constitutional rights; is that correct?

A. Correct.

Q. Okay. Who did you talk to when you signed your 2011/2012 contract for employment?

A. You mean who called me in?

Q. Yes.

A. Okay. I got a letter in the mail to go in to see Ms. Kavanaugh.

Q. You got a letter in the mail?

A. Uh-huh.

Q. And who was that letter from?

A. I believe it was from Mr. Swinford, the superintendent.

Q. Okay. What did that letter say?

A. Well, the letter said that I was -- the letter stated that I was being considered for reemployment, my interest for reemployment back to the district, and I don't recall whether I got a phone call to tell me to come in that Friday to get my contract signed. I don't think it was a letter. I think it was a phone call I received that stated that I had to go in by that Friday which was the 4th to get my contract signed.

Q. Okay. So did you receive a letter from Dr. SWinford?

A. The letter stated that it had come to her attention that I am interested in seeking employment in the district, the Vicksburg district.

Q. Okay. Do you remember the date of that letter?

A. No, but I think it was in July.

Q. In July. Okay. Do you still have that letter?

A. I have all of these things. Yes, I do.

Q. Okay. Now after you received that letter I understand there was a telephone call?

A. Yes, I received a telephone call telling me to report to Ms. Cavanaugh's office on Friday, which I did and signed this contract.

Q. Okay. After you received the letter from Dr. Swinford, did you call anybody at the district office?

A. No.

Q. Okay. Did you send a reply letter to Dr. Swinford's office or the school district office?

A. No.

Q. Okay. Just out of the blue you got a telephone call asking you to report on that Friday to see Ms. Kavanaugh?

A. See, all these things were going on here.

Q. Right.

MS. ROSS: And I think we were in touch with your office or there was another lawyer who was involved.

MR. SCHRADER: Warren? Warren Talbert.

MS. ROSS: The one who does the help -- I think it's the regular school board attorney.

MR. SCHRADER: Briggs, Hopson?

MS. ROSS: Yes, Briggs.

MR. SCHRADER: Okay.

MS. ROSS: We were in communication after they got the complaint and Briggs set that up.

Q. (By Mr. Schrader) Okay. All right. So you received a telephone call to go see Ms. Kavanaugh about the --

A. **She was going to explain to me about safety and health issues because of my back situation back on the campus, and the contract was supposed to be signed also.**

Q. Okay. And you met with her on August 4th?

A. **Yes, in her office.**

Q. Okay. And did you also take your return to work slip to Ms. Cavanaugh's office on August 4th?

A. **They received that before because I dropped it off.**

Q. Okay. When did you drop it off?

A. **I dropped it off in June.**

Q. Okay. And you talked to Ms. Kavanaugh in June as well?

A. **No. What happened was when I dropped it off, it was going on 4:00 in the afternoon, and I gave it to the secretary at her desk in the front, and I told her to please make sure this was being delivered to Ms. Grant or Ms. Kavanaugh or Ms. Johnson, whoever I said, you know, whoever's doing the Workman's Comp at that time.**

Q. Okay.

A. **Because I was dealing with two all the time, and then it was switched to Ms. Johnson. I delivered it myself. It was hand-delivered to the secretary.**

Q. All right. Do you know the secretary's name?

A. **No. The regular secretary was there. She's a black lady, but it wasn't her. It was a Caucasian lady.**

Q. Okay.

A. **I don't know if she was filling in, but I've seen her there several times, you know, right in the front when you come in.**

Q. Right.

A. **I don't know her name, but they were receiving them all the time.**

Q. So this would have been in June?

A. **This was in June.**

Q. And you took the June 6 report, Dr. Senter's return to work slip up to the district office and left it with the Caucasian secretary at the front desk?

A. **Correct.**

Q. And asked that it be forward to whoever was doing the Worker's Comp?

A. **Right. Right.**

Q. Okay. Do you have any belief as to why the school district would not have wanted to hire you for 2011/2012?

A. **No reason whatsoever. Never had a problem before.**

Q. Okay. So, I mean, you're not claiming that you were discriminated against or that they think you had done something wrong or anything like that?

A. **No.**

Q. Okay. And has anyone other than your attorney -- I'm not asking you for anything that your attorney has told you. But has anybody else from the school district ever explained to you why you did not get a contract for the 2011/2012 school year until August 2011?

A. **No.**

Q. Okay. Did you ask anybody at the school district why it took until August to do that?

A. **No.**

Q. Okay. And is my understanding correct, the only written documentation or request that you provided to the school district was maybe a cover sheet to your resume when you were reapplying for employment?

A. **A cover sheet and a resume, yes.**

Q. Okay.

MR. SCHRADER: I'd like to have the contract for the 2011/2012 school year attached as the next exhibit unless you have an objection.

MS. ROSS: No objection.

(EXHIBIT NO. 6 MARKED FOR THE RECORD)

A. **I'm kind of curious about something.**

MS. ROSS: You can ask if that's a concern.

A. **Would all these documentations that came from the doctor -- okay.**

Q. (By Mr. Schrader) I follow you.

A. **Nothing was stamped except this one. Why is that? I'm just curious. Because these were all**

sent in on a timely basis and so was that one.

Q. Okay.

A. And I know for a fact that all was turned in in June.

Q. All right. In your pointing that out, do you have any reason to believe that someone at the school district is being less than truthful?

A. Correct.

Q. Okay. Who do you think is being --

A. I have no idea who stamped it. I don't know who did it.

Q. Okay.

A. It could be anybody. The board should know about it. I don't know.

Q. Okay. It's my understanding that you left an original with the school district; is that correct?

A. I believe I gave them the original. Usually I give them the original and keep a copy.

Q. Okay. You have a copy of this?

A. I don't have a copy of when I gave it to them stamped, but I gave them this.

Q. Okay. Do you have any written documentation that indicates when you would have provided this slip on a date other than August 4th?

A. No, because if you look, I don't have any written record on any of the others I listed, and these are regular just like the others.

Q. Now I can't answer your question because I don't know who stamped that.

A. I just thought that was kind of obvious.

Q. Okay. If you'll take a look at page 4 of the complaint which is Exhibit 4. Paragraph 16 reads: Plaintiff contends Defendant Dr. Elizabeth and others used their apparent authority to cause Celia Gumbs-Grays contract as teacher to be unlawfully breached.

What is it that Dr. Swinford or other district employees did to breach the 2010/2011 contract?

MS. ROSS: Other than what she answered?

MR. SCHRADER: I need to know specifically what they did to breach the 2010/2011 contract?

MS. ROSS: I think y'all went over that when you went over the long recitation about them not paying her the two additional months. Do you remember that?

MR. SCHRADER: I remember we discussed it. So I'm asking Mrs. Gray.

Q. (By Mr. Schrader) Your complaint says that you're alleging that the school district breached the contract, and here's the contract. I'm asking exactly what did the school district do to breach this contract?

A. They didn't pay the last two months that was due under the contract, okay.

Q. Okay. Did you make a demand for payment of that salary? Did you ever ask them for that?

A. No.

Q. Did the school district do anything else to breach that contract in your opinion?

A. No.

Q. Just failure to pay the last two months. That would be June and July.

A. Correct.

Q. Okay. Now do you agree with me that you had not earned the last two months of that salary by working?

A. Well, I did not work, but due to the injury I sustained on the job I was unable to be at work because of the situation. Otherwise I would have been at the school doing my job.

Q. Okay. But you do agree with me that you didn't work to earn the last two months' salary?

A. I agree I wasn't at my job, yes.

Q. Okay. And according to this contract, if you work 187 days, they would pay you $41,515, correct?

A. Correct.

Q. And you didn't work the 187 days, correct?

A. Not by choice.

Q. Right. Due to a medical condition that you had, you weren't able to work those 187 days?

A. Correct, medical issues because of the job.

Q. Okay. Now has your Worker's Comp. claim been completely resolved?

A. Yes.

Q. Okay. You're not receiving any other benefits from Workers' Comp?

A. No.

Q. Okay. Do you expect to miss any more work due to your back injury?

A. It depends, because as I'm sitting here, I always be in pain.

Q. Okay.

A. I have to take pain pills to sleep at night. Sometimes I have to take them in the day.

Q. Do you currently have any other visits with Dr. Senter?

A. Not at this time, no.

Q. And Dr. Senter is the one that did the back surgery?

A. Correct.

Q. Okay. Are you seeing any other doctors besides Dr. Senter and Dr. Strong for your back?

A. Not at this time, no.

Q. Okay. Are you seeing any other doctors for any medical conditions that are related to the incident involving the student and Grove Street?

A. Not at this time, no.

Q. Okay. As you sit here today, can you think of any reason why the school district would not want to have you as a teacher?

A. None whatsoever. I have never had a problem all the years I have been teaching, never until now. I have yet to be told why I wasn't rehired at the time.

Q. Okay. Who have you asked to find out why you weren't rehired at the time?

A. My attorney is doing all of that for me.

Q. Okay. But you personally, you haven't asked anybody at the school district why you weren't rehired prior to filing your lawsuit?

A. When I spoke with Ms. Grant, I was in shock when she told me about reapplying. And I asked her after all I've been through with the student, the surgery, recuperating and all this, I don't no longer have a job. She informed me that she's only telling me what she's been told to tell me. I didn't ask a question. The people that I was supposed to ask that question to didn't return any phone calls.

Q. And who would that person be?

A. Ms. Johnson.

Q. Did you ever have occasion to speak with Dr. Swinford about this situation prior to your filing the lawsuit?

A. No.

Q. Okay. Did you ever attempt to talk with Dr. Swinford?

A. No. The reason why I didn't attempt to speak with her is because if you're going to terminate me and don't talk to me, explain anything to me, have no meetings with me, to me you don't have anything more to say.

Q. Okay. Do you have any knowledge as to the process that the school district goes through when considering the nonrenewal of a teacher?

A. To my understanding I'm supposed to have some kind of hearing or some sort of letter supposed to go out, some kind of hearing with them and the board or whatever. That's my understanding.

Q. Have you known any teachers that have gone through that process that were recommended for non-renewal and had a hearing in front of the school board? Are you aware of any teachers that have gone through that process?

A. Oh, yes, there is one, yes. Do you need a name?

Q. Who is that?

A. Wheatley. I don't know his first name.

MR. SCHRADER: Wheatley?

A. Wheatley.

MS. ROSS: That was last year.

Q. (By Mr. Schrader) Was he out at Grove Street?

A. Yes, he was.

Q. Was he the one that we read about in the papers about the alleged insubordination and not being renewed? Is that the gentlemen?

A. Yes, that's the same person.

Q. All right. Are you aware of any other teachers that have gone through that process?

A. No.

Q. Now did I understand what you have told me today is that the individuals that you spoke to regarding this situation was Gail Kavanaugh, Myrtle Adams, Ms. Grant, Charlotte Grant. You met with Ms. Johnson prior to June 6th?

A. Correct.

Q. She told you that once you were released for work to come on back and talk to her about getting placed in the district. Have you talked to anybody else in the school district about this case?

A. No.

Q. Okay. Any other teachers at your school?

A. Well, they're aware of some things that's happened, but I don't know to what extent.

Q. You're talking about teachers or principals or --

A. Yes, because, you know, people talk.

Q. Okay. After you received information from the insurance company leading you to believe that you would not be rehired, did you have occasion to speak with your principal at Grove Street?

A. I spoke with him, but he told me he didn't want to hear anything.

Q. He didn't want to hear anything?

A. He said he didn't want to hear it.

Q. That's Dr. Wymbs, Mr. Wymbs?

A. Really, on the situation with the Worker's Comp -- okay, rephrase the question because you confuse me with principals. I had three, so I don't know which one you're speaking about.

Q. Okay. You're right. You were at WCI when you went out for your back surgery.

A. Uh-huh.

Q. That's Dr. Wiggins?

A. Wiggins.

Q. Wiggins. Okay. Dr. Wiggins was your principal when you went out with your back surgery?

A. Okay. Uh-huh.

Q. And then the following summer in June, you received the information from Blue Cross/Blue Shield, did you have occasion to talk to Dr. Wiggins about whether or not you have a position?

A. No, because when I spoke to him, I was speaking to Dr. Wiggins when I got over the surgery, and I was able to speak with him up to December of 2010. And the last time I spoke to him was not a very nice talk because he was very verbally not nice.

Q. Okay. What was that about?

A. I would call him every so often because I was told that he was my immediate supervisor, although I didn't give him these slips because that was going to the central office. Long story short, when I spoke to him that December, he took a long time before he would answer the phone. I was trying to get in contact with him for days. When he did come on the phone he took a long time to come and he was very not nice on the phone, like I was bothering him, and his attitude was you shouldn't be talking to me anymore, you need to be talking to central office because I had to give your position to someone else. So, you know, you don't need to be bothering me anymore, but I was kind of fronted with that and I didn't think that was professional.

Q. And you no longer spoke with him after December?

A. Right, because his attitude was not good.

Q. Okay. Is there anything else that you would like to tell me about this situation that you think would help me understand what's going on in this lawsuit?

A. That's basically everything I guess.

Q. Okay.

MR. SCHRADER: I'm just going to look over my documents, and if I don't have any other questions that will be it. Let me make sure I got all of my exhibits straight. I think that's it. Did you-all want to read and sign?

MS. ROSS: Yes, we do want to read and sign.

(DEPOSITION CONCLUDED AT APPROXIMATELY 11:29 A.M.)

CERTIFICATE OF REPORTER

I, ESTELLA WREN, Certified Court Reporter in and for the County of Hinds, State of Mississippi, hereby certify that the foregoing proceedings, and including this page, contain a true and correct transcript of the proceedings as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision to the best of my skill and ability.

I certify that all witnesses were placed under oath by either the Court or the Bailiff to give truthful testimony in this matter.

I further certify that I am not in the employ of or related to any counsel or party in this matter, and have no interest, monetary, otherwise in the final outcome of the proceedings.

Witness my signature this the 18th day of May, 2012.

Estella Wren
ESTELLA WREN, CSR#1141

COPY

RECEIVED
AUG 04 2011
BY:

Mississippi Spine Clinic

971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 6/6 20 11

Celia Gray was seen in our office today. He / She

☒ May return to [✓ work] / school on 6/6 20 11.

☐ Will be re-evaluated for return to work / school at next appointment on:

______ 20 ___

WORK: (May return to the below duties on the below dates.)

Regular duty ______ 20 ___ Light duty ______ 20 ___

RESTRICT: ☒ Lifting to no more than: 40 pounds

☐ Standing/Sitting to no more than: ______ hours

☐ Working to no more than: ______ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ______ 20 ___

COMMENTS: ______

Signature ______

EXHIBIT
G

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Copy

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
FOR ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY, CELIA, 580-06-3048, and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) 2011-2012 and shall hold the position of licensed employee.

That the employee will be employed for 187 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/02/2011 and ending on 05/24/2012, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $42,010.00 , which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer, the Mississippi Educator Code of Ethics and Standard of Conduct adopted by the state Board of Education, and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

Swinford	Celia A. Gumbe-Gray
Superintendent	**Employee**
08/04/2011	08/04/2011
Date	**Date**

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

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EXHIBIT

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

MEMORANDUM OF AUTHORITIES AND BRIEF IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COME NOW, Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford, Superintendent, ("Defendants") by and through counsel, and submit this memorandum of authorities and brief in support of their motion for summary judgment, and would show the following, to-wit:

Pursuant to Federal Rule of Civil Procedure 56, summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *See* FED. R. CIV. PROC. 56. Summary judgment is to be rendered forthwith "if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law." Fed. R. Civ. Pro. 56(c). The language of this rule mandates the entry of summary judgment, "after adequate time for discovery and upon motion, against a party that fails to make a sufficient showing to establish the existence of an essential element to that party's case, and upon which that party will bear the burden of proof at trial." ***Celotex v. Catrett,*** 477 U.S. 317, 322, 106 S.Ct. 2548, 2552 (1986).

On August 20, 2009, Plaintiff, a teacher with the Vicksburg Warren School District, suffered an injury at work. She had surgery approximately one year later, on August 17, 2010, and was released to return to work by her physician on June 6, 2011. In the interim, she received worker's compensation benefits and Family Medical Leave Act benefits. Plaintiff is alleging that she was terminated apparently after receiving a health insurance notice that listed her as having voluntarily ended her employment. She contends that this was an unlawful breach of contract and that her due process rights were violated when she did not receive a hearing after allegedly being terminated.

By way of background, Plaintiff had communicated with Gail Kavanaugh (School District's Worker's Compensation Administrator) periodically during her convalescence about her medical status and other issues related to her work injury. See Exhibit "C". Plaintiff never confirmed through Kavanaugh or other School District administration officials that she was indeed returning to teach for the 2011-12 school year. Although she mentioned to the Assistant Superintendent that she would like to return to work, she never confirmed it or provided the necessary doctor's certificate to validate her desire and ability to do so. Since the fiscal year ended (June 30) and Plaintiff had not returned to work, the School District issued her a Continuation Coverage Election Notice (or "COBRA") which stated she had voluntarily ended her employment, and was entitled to continue her insurance benefits. *See* Exhibit "E". As noted below, this was sent out of an abundance of caution. Plaintiff was never issued a notice of termination. See Exhibits "A", "B", "C" and "D".

According to Dr. Elizabeth Swinford (Superintendent of Vicksburg Warren School District), Zena Keen (Personnel Manager for Vicksburg Warren School District), and Gail Kavanaugh, Plaintiff did not confirm that she would return to work with Vicksburg Warren School District. The COBRA notice was sent so that Plaintiff would not lose her health insurance coverage. Plaintiff had worked only nine days of the 2010-11 school year, had exceeded her Family Medical Leave Act leave time, and had not confirmed her intention to return to work; therefore, the administration thought it would be prudent to notify Plaintiff that she could continue to obtain insurance coverage through the School District. See Exhibit "B".

In her deposition, Plaintiff claims she desired to return to work and had received a Return to Work certificate from her doctor, submitting the original certificate to Gail Kavanaugh approximately the third week of June, 2011. *See* Exhibit "F," pg. 41. Kavanaugh maintains that she did *not* receive a Return to Work certificate from Plaintiff at any time in June. *See* Exhibit "C." Later in the same deposition, Plaintiff was asked a second time if she gave Ms. Kavanaugh the Return to Work certificate, to which she responded:

> No. What happened was when I dropped it off, it was going on 4:00 in the afternoon, and I gave it to the secretary at her desk in the front, and I told her to please make sure this was being delivered to Ms. Grant or Ms. Kavanaugh or Ms. Johnson, whoever I said, you know, whoever's doing the Workman's Comp at that time.

There is no record of receipt of this Return to Work certificate. Personnel Manager Zena Keen reviewed Plaintiff's personnel file for receipt in June of this Return to Work certificate but there was none. *See* Exhibit "B." It was not until August 4, 2011 (after suit was filed) that the Return to Work Certificate was received by the School District. On that date, Superintendent Elizabeth Swinford received an *original* Return to Work certificate from Plaintiff. *See* Exhibit "G." Upon receiving her Return to Work certificate, Defendants immediately offered Plaintiff a contract for employment for the 2011-12 school year, which Plaintiff accepted. *See* Exhibit "H." She has been working for the School District ever since.

In her Complaint, Plaintiff requests the Court to "[a]ward Celia Gumbs-Gray a contract for the 2011-2012 school year for intentional violations of her constitutionally protected rights in an amount to be determined by a jury of her peers." There was no termination, thus no breach of contract or denial of due process. Assuming that the facts as stated by Plaintiff in her Complaint are true, there is no basis to show that she was terminated or entitled to relief. "[W]hen the allegations in a complaint, however true, could not raise a claim of entitlement to relief, this basic deficiency should ... be exposed at the point of minimum expenditure of time and money by the parties and the court." ***Cuvillier v. Taylor,*** 503 F.3d 397, 401 (5th Cir. 2007) (citations omitted).

Plaintiff additionally claims she is owed wages from Defendants for the two months, June and July of 2011, after she was released from her doctor's care. See Exhibit "F", pp. 53-57. However, Plaintiff did not earn any wages during that period and there is no requirement in the law that mandates pay for time not worked. Furthermore, she had been paid worker's compensation benefits during her recuperation.

The time for discovery has passed, and Plaintiff has produced no evidence of any violation of her constitutional rights or that the alleged violation of those rights proximately caused any damages. Plaintiff is not entitled to a trial by jury under 42 U.S.C. § 1983. In a similar education case from the Fifth Circuit, the Court held,

> [A] claim for back pay presented in an equitable action for reinstatement authorized by § 1983 is not for jury consideration nor are the factual issues which form the basis of the claim for reinstatement. The Seventh Amendment does not so require. The plaintiffs' claim should have been determined by the court. The grant of jury trial was error.

Harkless v. Sweeny Independent School Dist., 427 F.2d 319, 324 (5th Cir. 1970).

Although Defendants did not initially seek to bar a trial by jury in light of the alleged §1983 claim, it is clear Plaintiff has not been deprived of an interest which is constitutionally protected. She is not entitled to a jury trial. Should this Motion for Summary Judgment not be granted, Defendants are requesting that the Court make a finding pursuant to Federal Rule of Civil Procedure 39(a)(2) that there is no federal right to a jury trial.

Plaintiff has failed to prove any deprivation of rights or breach of contract. There was no termination letter sent, only a precautionary COBRA letter. Plaintiff has not lost anything, and has sustained no damages. She was paid in full for the wages she earned as a teacher in 2010-11 and has been made whole by her employment with the School District for the 2011-12 school year. In other words, Plaintiff has failed to present the Court with sufficient, admissible evidence of significant and probative value so as to support her claim. Therefore, Defendants are entitled to judgment as a matter of law and summary judgment should be granted in their favor.

WHEREFORE, PREMISES CONSIDERED, Defendants, Vicksburg Warren School District and Dr. Elizabeth Swinford pray that this Court, receives their motion for summary judgment; and that the Court with or without hearing, grant summary judgment against the Plaintiff pursuant to Rules 56 of the Federal Rules of Civil Procedure.

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

By:______________________________
W. BRIGGS HOPSON, III (MS Bar #9067)
LAUREN ROBERTS CAPPAERT (MS Bar #101923)
G. PHILIP SCHRADER, IV (MS Bar #102201)

OF COUNSEL:

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1201 Cherry Street – Nogales Building
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Ph: (601) 636-6565
Fax: (601) 631-0114
hopson@tellerlaw.com
lcappaert@tellerlaw.com
pschrader@tellerlaw.com

CERTIFICATE OF SERVICE

I, W. Briggs Hopson, III, being first duly sworn, do hereby certify that the above is true and correct, and I have this day sent by U. S. Mail, postage prepaid, a true and correct copy of the foregoing to:

Lisa M. Ross, Esq.
P.O. Box 11264
Jackson, MS 39283-1264

This the 14th day of June, 2012.

/s/ W. Briggs Hopson, III
W. BRIGGS HOPSON, III

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF ELIZABETH D. SWINFORD

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Dr. Elizabeth D. Swinford, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am the Superintendent of Education for the Vicksburg Warren School District;

3. Celia Gumbs-Gray was never sent a letter of termination from Vicksburg Warren School District;

4. At no time did Celia Gumbs-Gray request a hearing regarding what she alleges was her termination from the School District;

5. I did not state to Celia Gumbs-Gray that she needed to submit a resume and application to be re-considered for employment with Vicksburg Warren School District;

6. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011;

7. On August 4, 2011, I received an original Return to Work certificate from Celia Gumbs-Gray;

8. On August 4, 2011, a contract for employment for the 2011-12 school year was offered to Celia Gumbs-Gray;

9. On August 4, 2011, Celia Gumbs-Gray accepted employment with the Vicksburg Warren School District for the 2011-12 school year and a contract was executed by myself and

tabbies EXHIBIT A

Celia Gumbs-Gray reflecting same;

10. Celia Gumbs-Gray was employed as a teacher with the Vicksburg Warren School District for the 2011-12 school year.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 14 day of June, 2012.

DR. ELIZABETH D. SWINFORD

SWORN TO AND SUBSCRIBED before me this the 14 day of June, 2012.

STATE OF MISSISSIPPI
GAIL F. PARKER
ID No 50101
NOTARY PUBLIC
Comm Expires September 1, 2013
WARREN COUNTY

Gail F. Parker
NOTARY PUBLIC
My Commission Expires: 9/1/2013

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF ZENA KEEN

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Zena Keen, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am presently the Personnel Manager for the Vicksburg Warren School District. During the time period alleged in this incident, I was the Finance Clerk and assisted with Personnel matters for the Vicksburg Warren School District;

3. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011;

4. Because I was not sure of Celia Gumbs-Gray's intention to return to work, I sent a continuation of benefits (COBRA) form to her out of an abundance of caution so that she would not lose her insurance benefits;

5. To my knowledge, Celia Gumbs-Gray was never sent a letter of termination from Vicksburg Warren School District;

6. As the Personnel Manager for Vicksburg Warren School District, I have reviewed the personnel file for Celia Gumbs-Gray. Ms. Gray's file does not contain a Return to Work certificate prior to the Return to Work certificate she submitted on August 4, 2011. Ms. Gray's file contains no record of a Return to Work certificate being submitted in June, 2011.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 13th day of June, 2012.

Zena Keen

ZENA KEEN

EXHIBIT

tabbies

B

SWORN TO AND SUBSCRIBED before me this the 13th day of June, 2012.

Crystal R. Moulder

NOTARY PUBLIC

My Commission Expires:

STATE OF MISSISSIPPI

CRYSTAL R. MOULDER

ID No

86399

NOTARY PUBLIC

Comm Expires

July 31, 2015

WARREN COUNTY

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF GAIL KAVANAUGH

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Gail Kavanaugh, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am the Child Nutrition Director, Safety Administrator and Worker's Compensation Administrator for the Vicksburg Warren School District;

3. Through my job as Worker's Compensation Administrator with the School District, I assisted Celia Gumbs-Gray with her Worker's Compensation matter;

4. During her medical leave, I communicated periodically with Celia Gumbs-Gray regarding her condition. At no time during these communications did Celia Gumbs-Gray state to me that she intended to return to work with Vicksburg Warren School District;

5. I did not state to Celia Gumbs-Gray that she needed to submit a resume and application to be re-considered for employment with Vicksburg Warren School District;

6. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 12 day of June, 2012.

Gail Kavanaugh
GAIL KAVANAUGH

SWORN TO AND SUBSCRIBED before me this the 12th day of June, 2012.

Crystal R. Moulder
NOTARY PUBLIC
My Commission Expires: ____________

CRYSTAL R. MOULDER
ID No 86399
NOTARY PUBLIC
Comm Expires
July 31, 2015

EXHIBIT
C

STATE OF MISSISSIPPI

COUNTY OF WARREN

AFFIDAVIT OF PAULA JOHNSON

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Paula Johnson, who, after being duly sworn, stated upon oath as follows, to-wit:

1. I am a citizen of Warren County, Mississippi, residing in Vicksburg, Mississippi;

2. I am the Assistant Superintendent of Education for the Vicksburg Warren School District. I became employed with the Vicksburg Warren School District in January of 2011;

3. I spoke with Celia Gumbs-Gray via telephone on one occasion regarding her medical condition and medical leave. Additionally, in approximately late May or early June, I had a meeting with Celia Gumbs-Gray regarding her medical leave;

4. In my communication with Celia Gumbs-Gray, she indicated to me that she would like to return to work with the Vicksburg Warren School District;

5. I did not receive a Return to Work certificate from Celia Gumbs-Gray in June of 2011;

6. I did not state to Celia Gumbs-Gray that she needed to submit a resume and application to be re-considered for employment with Vicksburg Warren School District;

7. To my knowledge, Celia Gumbs-Gray was never sent a letter of termination from Vicksburg Warren School District;

8. To my knowledge, at no time did Celia Gumbs-Gray request a hearing regarding what she alleges was her termination from the School District;

EXHIBIT

D

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9. Celia Gumbs-Gray was employed as a teacher with the Vicksburg Warren School District for the 2011-12 school year.

Further, Affiant sayeth not.

WITNESS MY SIGNATURE this the 13th day of June, 2012.

Paula Johnson
PAULA JOHNSON

SWORN TO AND SUBSCRIBED before me this the 13th day of June, 2012.

Crystal R. Moulder
NOTARY PUBLIC
My Commission Expires:

STATE OF MISSISSIPPI
CRYSTAL R. MOULDER
ID No
86399
NOTARY PUBLIC
Comm Expires
July 31, 2015
WARREN COUNTY

State and School Employees' Health Insurance Plan
Continuation Coverage Election Notice

To: Celia Gumbs Gray
Name of Employee or Qualified Beneficiary(ies)

July 11, 2011
Date Notified

This notice contains important information about your right to continue your health care coverage in the State and School Employees' Health Insurance Plan (Plan). Please read the information contained in this notice very carefully.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act (201 0 DOD Act) on December 19, 2009 and the Temporary Extension Act of 201 0 (TEA) on March 2, 20 1 0, reduces the COBRA premium in some cases. On April 15, 20 1 0, the President signed into law an extension of unemployment benefits and COBRA premium assistance. You are receiving this election notice because you experienced a loss of coverage that occurred during the period that begins with September 1, 2008 and ends with May 31, 2010 and you may be eligible for the temporary premium reduction for up to 15 months. To help determine whether you can get the ARRA premium reduction, you should read this notice and the attached documents carefully. In particular, reference the "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" with details regarding eligibility, restrictions, and obligations and the "Application for Treatment as an Assistance Eligible Individual." **If you believe you meet the criteria for the premium reduction, complete the "Application for Treatment as an Assistance Eligible Individual" and return it with your completed Election Form.**

To elect COBRA continuation coverage, follow the instructions on the following pages to complete the enclosed Election Form and submit it to Blue Cross & Blue Shield of Mississippi.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on July 31, 2011 due to:

☒ End of employment
  ☐ Involuntary ☒ Voluntary
☐ Divorce or legal separation
☐ Death of employee
☐ Entitlement to Medicare
☐ Reduction in hours of employment
☐ Loss of dependent child status

If you believe you meet the criteria for the premium reduction, complete the "Request for Treatment as an Assistance Eligible Individual" and return it along with this page and your completed Election Form.

Each person ("qualified beneficiary") in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to 18 months:

☒ Employee or former employee
☐ Spouse or former spouse
☐ Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
☐ Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on August 1, 2011 and can last until February 28, 2012. This Election Form must be completed and returned by mail. It must be post-marked no later than September 8, 2011.

EXHIBIT
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E

COBRA Continuation Coverage Election Form

Instructions: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan.

Send completed Election Form to:

Blue Cross & Blue Shield of Mississippi
PO Box 23734
Jackson, MS 39225

This Election Form must be completed and returned by mail. If mailed, it must be post-marked no later than September 8, 2011**.**

If you do not submit a completed Election Form by the due date shown above, you will lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you furnish a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you furnish the completed Election Form.

I (We) elect COBRA continuation coverage in the State and School Employees' Health Insurance Plan (Plan) as indicated below:

	Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
a.				
b.				
c.				
d.				

Signature

Date

Print Name

Relationship to individual(s) listed above

Print Address

Telephone number

IMPORTANT INFORMATION ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS

What is continuation coverage?

Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage when there is a "qualifying event" that would result in a loss of coverage under an employer's plan. Depending on the type of qualifying event, "qualified beneficiaries" can include the employee (or retired employee) covered under the group health plan, the covered employee's spouse, and the dependent children of the covered employee.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who are not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the Plan, including open enrollment and special enrollment rights.

How long will continuation coverage last?

In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of 18 months. In the case of loss of coverage due to an employee's death, coverage may be continued for up to a total of 36 months. In the case of loss of coverage due to a divorce or legal separation, an employee becoming entitled to Medicare benefits or a dependent child ceasing to be a dependent under the terms of the Plan, coverage may be continued for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. This notice shows the maximum period of continuation coverage available to the qualified beneficiaries.

Continuation coverage will be terminated before the end of the maximum period if:

- any required premium is not paid in full on time,
- a qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- a covered employee becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- the employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of participant or beneficiary not receiving continuation coverage (such as fraud).

How can you extend the length of COBRA continuation coverage?

If you elect continuation coverage, an extension of the 18-month period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify Blue Cross & Blue Shield of Mississippi (BCBSMS) of a disability or a second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

Disability

An 11-month extension of coverage may be available if any of the qualified beneficiaries is determined by the Social Security Administration (SSA) to be disabled. The disability has to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. You must make sure that BCBSMS is notified of the Social Security Administration's determination within 60 days of the date of the determination and before the end of the 18-month period of COBRA continuation coverage. This notice should be sent to Blue Cross & Blue Shield of Mississippi, P O Box 23734, Jackson, MS 39225. Each qualified beneficiary who has elected continuation coverage will be entitled to the 11-month disability extension if one of them qualifies. If the qualified beneficiary is determined by SSA to no longer be disabled, you must notify the Plan of that fact within 30 days after SSA's determination.

Second Qualifying Event
An 18-month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first 18 months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify BCBSMS within 60 days after a second qualifying event occurs if you want to extend your continuation coverage.

How can you elect COBRA continuation coverage?

To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all of the qualified beneficiaries.

In considering whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied to you by other group health plans if you have more than a 63-day gap in health coverage, and election of continuation coverage may help you not have such a gap. Second, you will lose the guaranteed right to purchase individual health insurance policies that do not impose such pre-existing condition exclusions if you do not get continuation coverage for the maximum time available to you. Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage ends because of the qualifying event listed above. You will also have the same special enrollment right at the end of continuation coverage if you get continuation coverage for the maximum time available to you.

How much does COBRA continuation coverage cost?

Each qualified beneficiary is required to pay the entire cost of continuation coverage. The amount a qualified beneficiary is required to pay may not exceed 102 percent (or, in the case of an extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

When and how must payment for COBRA continuation coverage be made?

First payment for continuation coverage
If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than 45 days after the date of your election. (This is the date the Election Notice is post-marked.) If you do not make your first payment for continuation coverage in full not later than 45 days after the date of your election, you will lose all continuation coverage rights under the Plan. Coverage will not be reinstated until the initial payment is received. This payment must include all premiums due for the coverage period beginning with your COBRA coverage effective date through the current month. You are responsible for making sure that the amount of your first payment is correct. You may contact BCBSMS to confirm the correct amount of your first payment. If you wish to have your monthly premium paid by bank draft, contact BCBSMS at 800-709-7881.

Periodic payments for continuation coverage
After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due on the first day of the month for that coverage period. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan will send periodic notices of payments due for these coverage periods.

Grace periods for periodic payments
Although periodic payments are due on the dates shown above, you will be given a grace period of 30 days after the first day of the coverage period to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment.

If you fail to make a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan. Your first payment and all periodic payments for continuation coverage should be sent to:

Blue Cross & Blue Shield of Mississippi
P O Box 23734
Jackson, MS 39225

MAKE CHECKS/MONEY ORDERS PAYABLE TO: STATE/SCHOOL INSURANCE FUND

NOTE: NSF and other returned checks will be assessed a $30 handling fee and must be satisfied immediately to avoid coverage termination.

For more information
This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your *Plan Document*. If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your *Plan Document*, you should contact BCBSMS at 800-709-7881.

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

Keep Blue Cross & Blue Shield Informed of Address Changes
In order to protect your and your family's rights, you should keep the BCBSMS informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to BCBSMS.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY
PLAINTIFF,

V.
CIVIL ACTION NO: 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD
DEFENDANTS.

* * * * * * * * * * * * * * * * * * *

DEPOSITION OF CELIA L. GUMBS-GRAY

Taken on Tuesday, May 8, 2012, at the Law Office of Teller, Hassell & Hopson, LLP, at 1201 Cherry Street, Vicksburg, Mississippi, beginning at approximately 9:30 a.m.

* * * * * * * * * * * * * * * * *

APPEARANCES:

PHILIP SCHRADER, ESQUIRE
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, Mississippi 39183-2919
Counsel for Defendants

LISA M. ROSS, ESQUIRE
Attorney at Law
Post Office Box 11264
Jackson, Mississippi 39283-1264
Counsel for Plaintiff

REPORTED BY: ESTELLA WREN, CSR #1141
Official Court Reporter

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SIGNATURE OF WITNESS

I, _______________, do solemnly swear that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:

PAGE: LINE: SHOULD READ: REASON FOR CHANGE:

____ ____ _______________ __________________
____ ____ _______________ __________________
____ ____ _______________ __________________
____ ____ _______________ __________________
____ ____ _______________ __________________

____
(SIGNATURE)

NOTARIZATION

I, _______________, Notary Public for the State of___________________, _______________, County, do hereby certify that ______________ personally appeared before me this ______ day of _______________, 2012, at _________________, _________________.

____
(Notary Public)

My Commission Expires:

____

CELIA L. GUMBS-GRAY
having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MR. SCHRADER:

Q. Would you please state your full name for the record.

A. **My name is Celia Lorencia Gumbs-Gray.**

Q. Okay. When you introduced yourself to me, you introduced yourself as Celia Gray. Would you like me to call you Mrs. Gray or Mrs. Gumbs-Gray? How would you like me to refer to you?

A. **You can call me Mrs. Gray.**

Q. All right. Mrs. Gray, what we're doing here is a deposition in the civil proceeding that was filed against the Vicksburg Warren School District. Have you ever given a deposition before?

A. **No.**

Q. All right. To give you an idea of what to expect. What we'll be doing here today is I'll be asking you a lot of questions about your lawsuit against the school district so that I can get a clear understanding of what your claims are against the school district. I'll be asking a lot of questions. And if at any time you don't understand any of the

questions that I ask, if you'll let me know, I'll try to rephrase it or restate it so that you and I are on the same page. Okay?

A. **Okay.**

Q. And I'll ask if you have any confusion about any question that I ask you, let me know and I'll try to rephrase it. If I use any terms that you don't understand or you're not sure about, if you'll let me know we'll try to clear that up. If you answer a question, I'll assume that you understood the question, okay? Is that fair?

A. **Yes.**

Q. All right. We have a court reporter here that's transcribing my questions and your answers and any objections or any statements that Ms. Ross has. So I'm going to ask that prior to your answering a question if you'll wait until I'm finish asking my question and then you answer, and then I'll try to wait until you finish your answer before I ask another question so that the court reporter can get that. Okay?

A. **Yes.**

Q. Also, it's hard for her to take down nods or shakes of the head and I have a problem with doing that. And so I'm going to ask that if it's a yes or

no question, that you will answer yes or no. It's hard to get the uh-huh and huh-uh down on paper.

A. **Okay.**

Q. Now before we get started, I'd like to have the Renotice of Deposition attached as an exhibit to the deposition. That will be our first exhibit.

(EXHIBIT NO. 1 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) All right. Ms. Gray, I assume you live here in Vicksburg; is that correct?

A. **I do.**

Q. And where do you live?

A. **2621 Roosevelt Avenue, Vicksburg, Mississippi.**

Q. How long have you lived there?

A. **About seven years, seven and a half years or so.**

Q. Prior to moving into the Roosevelt Avenue address, did you live in Vicksburg?

A. **Yes.**

Q. Okay. How long have you lived in Vicksburg?

A. **Okay. I got here in 2003. About eight years, eight or nine years.**

Q. Okay. And where did you live before you

moved to Vicksburg in 2003?

A. **On Pearl Street. I cannot be sure of the number, but I know it was on Pearl Street.**

Q. Okay. And are you married?

A. **Yes.**

Q. And what's your husband's name?

A. **His name is Steve B. Gray.**

Q. All right. And does Steve work outside the home?

A. **Yes, he does.**

Q. And who does he work for?

A. **Right now he is working for Kroger. He's out in Pearl.**

Q. In Pearl?

A. **Yes.**

Q. Pearl, Mississippi?

A. **Pearl, Mississippi.**

Q. Okay. And he lives here in Vicksburg, too?

A. **Yes, he does.**

Q. Okay. Now I understand that you're a teacher.

A. **Correct.**

Q. How long have you been teaching?

A. **I would say about 20 years, plus. It**

could be more than that.

Q. Okay. So I assume that before you moved to Mississippi, you were a teacher somewhere else?

A. Correct.

Q. Okay. What other states or countries did you teach?

A. On the Island. I worked with the Department of Education in the Virgin Islands.

Q. And what years was that?

A. Okay. Starting in '86, then I stopped in -- okay. I started in '86, I stopped in '92 or '93, and then I started back in '96. I stopped in 2003, and I'm here now.

Q. And is that when you moved to Mississippi?

A. Yes, that's when I moved to Mississippi.

Q. Okay. What brought you to Mississippi?

A. I got married to someone from Mississippi. He's from here.

Q. I see. And I trust that you hold a Mississippi license from the Mississippi Department of Education?

A. Yes.

Q. When did you receive that?

A. 2004.

Q. And have you taught for any other districts other than the Vicksburg Warren School District here in Mississippi?

A. No.

Q. Now I understand that you were hired in 2004 as a teacher for the Vicksburg Warren School District; is that correct?

A. Correct.

Q. And what school were you working at when you first hired on?

A. Grove Street School.

Q. Are you still at Grove Street?

A. No, I'm not.

Q. Where are you now?

A. Right now I'm over at Redwood Elementary School.

Q. Have you worked at any other schools other than Grove Street or Redwood?

A. I was at WCI very briefly for about two weeks.

Q. Okay. When was that?

A. That was in August of 2009 -- no, 2010.

Q. Okay. And any other schools in Vicksburg Warren School District other than Grove Street, Redwood or WCI?

A. Not as a licensed teacher, no.

Q. Okay. Have you worked at any other schools as something other than a licensed teacher?

A. Yes.

Q. What school was that?

A. When I first got here in 2004, I did some subbing, so I was at a different school whenever they needed a substitute teacher.

Q. Okay. What years were you at Grove Street?

A. 2004 when I started until about the end of the school year 2009.

Q. Okay. Would that have been 2009/2010 school year that you would have finished up at Grove Street?

A. I finished at Grove Street, yes, in '09.

Q. Okay. And then after Grove Street you went to WCI?

A. Correct.

Q. And you were only there for a couple of weeks?

A. Correct.

Q. Okay. And then I assume that you started Redwood for the 2011/2012 school year?

A. Correct. Right.

Q. What did you teach at Grove Street?

A. Okay. When I first started I taught pre-GD classes for seven and eight graders.

Q. All right. And is Grove Street the alternative school?

A. Yes, it is.

Q. Has it been the alternative school the whole time you were there?

A. Yes.

Q. All right. And what are you teaching at Redwood?

A. I have fourth grade.

Q. My wife is a fourth grade teacher at Beachwood. All right. And at WCI, what were you teaching?

A. I had fifth grade.

Q. All right. Now I understand that you were involved in an altercation in 2009. Was it 2009 that you were involved in an altercation?

A. Correct.

Q. Okay. Can you tell me what happened in that altercation?

A. Okay. It happened in the morning. The kids were just arriving at school. We were informed as teachers that when kids come to the classroom we

should greet them at the door. But that particular school I was teaching at at the time was not like a regular school where kids would just walk around. We were informed by administration that when the kids get into the classroom do not let them walk the hallway, leave the room under any other circumstances unless it's an emergency due to the type of school we had because there were fights and what have you. So she came in and it took her a while for her to get to the room actually, because she was just late. I don't know what was wrong with her.

Q. This is a female student?

A. **It is. She was about 260 plus, very heavy. She came into the room and after a while then she wanted to leave, and I refused to let her leave. I was standing in front of the door because I didn't allow her to leave. She tackled me out of the way. So when she tackled me I fell toward the floor, but I didn't hit the floor. I grabbed onto the side of the panel of the door and was able to catch myself before I hit the floor.**

Q. Okay. And I understand that you were injured as a result of that?

A. **Yes, sir, I got messed up.**

Q. Okay. Did you leave school that day to go get medical treatment?

A. **Yes. I didn't get to leave until later on because at that time I didn't know the procedure or anything. I didn't know the situation on that. I spoke to Ms. Grant from the main office and she told me she can send me to a doctor that the district knows which was a Dr. Easterling. And she was supposed to set up some sort of appointment to get me to see him and I made a phone call, which I got later on that day. I did not leave the school when that happened. Then I went to see him, and he spoke to me. He didn't examine me or anything. He sent me to get an x-ray, and he said seem like everything is fine; gave me some medicine and I went back to school.**

Q. Okay. What date was the incident on? Do you remember?

A. **It was September -- I'm not sure. I think it was September 19th. I'm not quite sure.**

Q. Okay. Back in 2009; is that right?

A. **That's correct.**

Q. All right. And you went to go see Dr. Easterling and he took an x-ray and gave you some meds and sent you back to work?

A. **Yes.**

Q. Okay. Did you see any other doctors for your back at that time?

A. **Not right at that time because I went back to school -- I was in extreme pain, I'm not going to lie to you; went back to work and my principal saw me and he sent me back home.**

Q. Who was your principal?

A. **Wymbs. I don't remember his first name, but it's W-Y-M-B-S. That was his name.**

Q. All right. Who was the next doctor that you saw about your back?

A. **Dr. Strong. He's over at the hospital at Regional.**

Q. Okay. And what did Dr. Strong tell you?

A. **He knew my problem was with my back, so he was giving me injections in the back. And I was doing -- I believe I was doing physical therapy also, but it was not helping.**

Q. Did Dr. Strong recommend the physical therapy or did another doctor recommend that?

A. **He did.**

Q. Okay. In 2009, did you see any other doctors besides Dr. Easterling and Dr. Strong about your back?

A. **Yes. Whatever was happening was not improving because Dr. Strong wanted me to see another doctor. So I ended up seeing a -- what you call it, a spinalogist.**

Q. Okay.

A. **A specialist that deals with the spine, and his name is Senter, Robert Senter.**

Q. Where is he?

A. **He's at the St. Dominic Hospital.**

Q. All right. And in 2009 what did Dr. Senter do? Did you see him in 2009?

A. **Yes, I did see him. He did a whole set of x-rays and different tests on me. And he told me that it looks like I need surgery.**

Q. Okay.

A. **But he said since we're dealing with Workman's Comp he knows we have to go through all the procedures and exhaust stuff, so I went back to the regimen of injections, and he sent me right back to Dr. Strong, who is the pain management person, and I had more therapy.**

Q. Okay. Did you see any other doctors in 2009 besides Dr. Strong, Dr. Easterling and Dr. Senter for your back?

A. **Well, not in that time, but later on when everything was ruled out and it had come to the**

surgery part, I went to see a Dr. Ilercil for a second opinion before the Workman's Comp would agree to the surgery.

Q. Okay. You said Dr. Ilercil?

A. **Ilercil, yes.**

Q. Where was his office?

A. **He is located in Jackson also.**

Q. When did you go see him? And I don't need the exact date, just the time frame.

A. **I saw him sometime in 2010, a couple of months or so before the surgery.**

Q. Okay. How long were you off work in 2009/2010 school year?

A. **I was off two weeks. Wait a minute. 2009/2010?**

Q. Right.

A. **Yes, two weeks.**

Q. Okay. Did you receive any Worker's Comp?

A. **Very briefly during that time.**

Q. Okay. Do you know how much you received during that time, the 2009/2010 year, from Worker's Comp as far as the disability payments; not the medical benefits, but the disability payments?

A. **Maybe between four and six hundred; not entirely positive about that.**

Q. And that was for a period of about two weeks?

A. **Yes.**

Q. Okay. Did you have an attorney represent you on the Worker's Comp claim at that time, 2009/2010?

A. **No.**

Q. All right. Now from records that I saw from the District, you had requested some FMLA leave in July that was going to start going into effect when you had your surgery in August; is that right?

A. **Can you repeat it?**

Q. Okay. I saw a document from the school district that indicated that in July of 2010 you had notified them that you were going to need some FMLA leave that was going to start in August when you had your surgery. Is that how you remember that?

A. **I remember letting them know that I was possibly going to have surgery because when I spoke to my doctor he told me that the surgery was coming up but he didn't tell me exactly when because when you're dealing with Worker's Comp they are the one that set everything, you know.**

Q. Okay.

A. **But in regards to the leave, I really**

didn't have any idea what that was all about. Being the type of person I am, I wanted everything to be in order.

Q. Right.

A. **So that, you know, I was more concerned about the kids, me not being in the classroom, not in the position, you know, so I wanted everything in order before I was called out.**

Q. My understanding is that you were going to have your surgery in August of 2010?

A. **Correct, the 17th. And they told me about this two weeks before the surgery. I found out about the surgery two weeks before the surgery. Imagine that.**

Q. Okay. It's my understanding that you had a contract for employment. Let's see, I think I have a copy. I hand you this document, and I'd like you to take a look at it. Now I understand this to be your unemployment contract with the school district from 2010/2011; is that correct?

A. **Correct.**

Q. All right. And then this contract was signed by you on June 1st, 2010?

A. **Correct.**

MR. SCHRADER: All right. I'd like to

have this contract attached as an exhibit to the deposition.

MS. ROSS: No objection.

MR. SCHRADER: That will be Exhibit 2, I believe.

(EXHIBIT NO. 2 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Ms. Gray, I'm going to ask that you take a look at this contract. And I want to make sure that I'm clear on what this contract lines out. You signed this on June 1st, 2010; is that correct?

A. **Correct.**

Q. And your school year for the 2010/2011 school year was supposed to begin on August 2nd of 2010?

A. **Correct.**

Q. And you attended work on August 2nd?

A. **Yes, I was there on August 2nd.**

Q. Okay. And then I think I heard you say that your surgery was going to be on August 17th; is that right?

A. **Yes, that's correct.**

Q. Okay. From August 2nd to August 17th, do you recall missing any days, being out for illness or personal leave or anything like that?

A. I had the presurgery things that you have to do before surgery, I had to take a day for that.

Q. Okay. Do you know on what day that was?

A. It was right before then. I think it was about the 13th or the 14th.

Q. Okay.

A. It was a couple of days prior to the surgery they have to do the preadmit or something I think it's called.

Q. Okay. And so do you remember your last day to attend work prior to your back surgery? Do you remember that?

A. It was the day before the surgery. It was up to the day before.

Q. And where did you have your surgery?

A. St. Dominic's Hospital.

Q. And did Dr. Senter do that surgery?

A. Yes, he did.

Q. I understand that Dr. Senter took you off work and -- I understand that Dr. Senter let you know that immediately following the surgery you couldn't come back to work, right? He took you off work for a while?

A. Yes.

Q. We received -- and I'm not sure who sent these to us. The district may have sent these to us, but I'd like for you to take a look at these documents and see if you recognize those as the slips you got from Dr. Senter explaining when you were supposed to return to work or when you were supposed to return to his office for evaluation?

A. Yes, uh-huh.

Q. Did you take these slips to the school district?

A. Yes. I gave them to Ms. Kavanaugh at the district office.

Q. Okay.

A. It's a matter of meeting with the doctor, and when I get one of those things I have it delivered to them.

Q. Okay. And you would turn these over to Ms. Kavanaugh?

A. Ms. Kavanaugh, Gail Kavanaugh.

Q. Gail. Okay. And what is her position at the district?

A. Well, actually, she does a series of things. I know she does the Workman's Comp thing and she does nutrition or something like that.

MR. SCHRADER: I'd like to have these doctor's slips attached as an exhibit to the deposition. You have no objection?

MS. ROSS: No objection.

MR. SCHRADER: That will be Exhibit 3.

(EXHIBIT NO. 3 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Before we move on to the doctor's slips, I have a few more questions about the contract here as Exhibit 2.

A. Okay.

Q. Now in your employment contract for the 2010/2011 school year, you were going to be paid a total of $41,515; is that correct?

A. That's correct.

Q. And your contract period was going to be for 187 days; is that correct?

A. Correct.

Q. And that was going to begin on August 2nd and end on May 24, 2011; is that correct?

A. Correct.

Q. And at the time Dr. Price was the -- when you signed this in June 2010, Dr. Price was the superintendent; is that correct?

A. Correct.

Q. Okay. I'd like to go over these work slips that we have. Now I understand that you had your surgery on August 17th. And according to these slips it looks like you went back to see Dr. Senter on September 3rd for a followup; is that correct?

A. Yes. I don't have what you have there, but --

Q. Let's see. It should be the same.

A. Oh, yes. Okay.

Q. On September 3rd it looked like you went back to Dr. Senter?

A. Yes.

Q. And he said that you'll be evaluated on October 15th, 2010, but you're supposed to be off work until that time?

A. Correct.

Q. Okay. After your surgery, you begin receiving Worker's Comp benefits; is that correct?

A. Yes, correct.

Q. Okay. Were you getting paid every week or every month or how were you getting paid by Worker's Comp?

A. Twice a month.

Q. Twice a month.

A. Uh-huh.

Q. And how much were you getting paid each pay period from Worker's Comp?

A. 800 and -- I think it was 828.

Q. 828 every two weeks?

A. Uh-huh, I believe so.

Q. Do you have any documents in your personal records that would reflect how much Worker's Comp was paying you?

A. Yes. I got it in the car.

Q. Okay. After your surgery and you were going to be out on Worker's Comp, did you hire a Worker's Comp attorney to help you with that claim?

A. Not right away.

Q. Okay. But at some point, did you?

A. Yes, toward the latter part.

Q. Okay. What attorney helped you with that?

A. First, I went to Sutherland here, and then she turned me over to someone called -- his name is -- I have all that information in the car. He's out of Columbus, Mississippi. Shane Tompkins. That's the name. That's the attorney out of Columbus.

Q. All right.

A. So, basically, they were my attorney, but they turned me over to him so they got whatever, you know, I don't know whatever kind of agreement that they had.

Q. Okay. And the checks you were getting from Worker's Comp for 828 every two weeks, were those coming directly to you or did they go directly to your attorney's office?

A. Directly to me.

Q. And so you would have received that between August 2010 until you went back to -- at least until you went to Dr. Senter in October of 2010 and he kept you off work again, correct?

A. Repeat that again.

Q. Okay. That's probably a bad question. When did you begin receiving your Worker's Comp benefits?

A. The end of August or early September of 2010.

Q. All right. And then on the first page of that Exhibit 3, Dr. Senter kept you off work until you were to return back on October 15, 2010; is that correct?

A. Correct.

Q. And then the next one I have shows that Dr. Senter saw you again on October 15, 2010, and kept you off work until January 3rd of 2011; is that correct?

A. Correct.

Q. Okay. Between October 17th, 2010, and January 3rd, 2011, did you attend any work at Vicksburg Warren School District?

A. No.

Q. The next slip we have from Dr. Senter's office shows that you went to see him January 3rd, 2011, and he kept you off work until he saw you again on March 7, 2011; is that correct?

A. Correct.

Q. And between January 3rd, 2011, and March 7th, 2011, did you attend any work at the Vicksburg Warren School District?

A. No.

Q. The next document I have shows that you went to see Dr. Senter on March 7th, 2011, and he indicated that you would be off work until you were re-evaluated on June 6th, 2011; is that correct?

A. Correct.

Q. And did you do any work between March 7th 2011, and June 6th, 2011?

A. No.

Q. And the last one that I have shows that you went to see Dr. Senter on June 6th, 2011, and he indicated that you were ready to go back to work, but that you could lift no more than 40 pounds; is that

correct?

A. Correct.

Q. Okay. And did Dr. Senter give you this while you were at his office?

A. Yes.

Q. All right. So, as I understand it, your last date for the 2010/2011 school year was the day before your surgery?

A. Correct.

Q. That would have been August 16th?

A. Correct.

Q. All right. Now my wife is a fourth grade teacher at Beachwood, so I kind of have an understanding of how the teachers get paid. But I want you to make sure that I'm clear about that. This is the contract that we discussed earlier. Now the way that I understand it is y'all are paid for 187 days of work but, so that you don't have months that you don't have income, they stretch that over a 12-month period; is that correct?

A. Correct.

Q. Okay. So the way that I understand it is the school district would take your $41,515, divide that by 12, and that would be your gross income per month?

A. Correct.

Q. Okay. Now taking your salary of $41,515 and dividing that by 12, that would be a gross salary of $3,459.58. Is that how much your gross paid is?

A. The gross, yes.

Q. Okay. And that was before tax-holdings or insurance and things of that nature?

A. Yes.

Q. Okay. Now when you had your surgery in August 2010, did you receive a paycheck at the end of August from the school district?

A. Yes.

Q. Okay. How much was that?

A. I believe it was around 8 something, 800 and something for the two weeks that I worked.

Q. Okay. Now 800 and something, would that have been your gross salary less any taxes and withholdings only for the days that you had worked?

A. Correct.

Q. According to the human resource department up at the school district, they indicated that you had worked a total of nine days in August. Does that sound right to you?

A. Yes.

Q. Okay. Did you receive a paycheck from

the school district at the end of September?

A. No.

Q. Okay. When you started the school year in 2010/2011, are you aware of how many days of sick leave you had available to you?

A. No. I think it was about maybe 12 to 15. I'm guessing. I think it was about 17 actually.

Q. Okay.

A. I believe it was 17.

Q. Would that 17 have included your personal leave as well, sick and personal leave?

A. Yes.

Q. While you were out after your back surgery, did you have occasion to speak with anybody up at the central office about how many sick days or personal days you had available to you?

A. No.

Q. The way that I understand your employment contract is the school district -- that you promised the school district that you would work for 187 days and they would promise to pay you $41,515.00. Is that how you understand that arrangement to be with the school district?

A. Yes.

Q. Okay. And that they would pay you over

the course of the entire year instead of just the nine months that you worked. Is that how you understand it?

A. Correct.

Q. Now according to your contract, the contract was supposed to end on May 24, 2011. And you weren't released back to work until after that; is that correct, June 6th?

A. Yes.

Q. Okay. Your contract had been renewed every year since 2004?

A. Correct.

Q. Now, typically, it's my understanding that in March or April letters go out to the teachers -- letters of intent for the teachers to sign to see if they intended to come back the following year?

A. Correct.

Q. Okay. Did you ever receive a letter from them?

A. Yes.

Q. Okay. In the years past when you have signed the letter of intent or gotten the letter of intent, how would they have delivered those to you? Did they mail them to you or did they bring them to

you at the school?

A. Well, originally, they would bring them to you at the school if you were at the school. Since I was always at the school I have no idea how they, you know, dealt with people who were not there when the letters came.

Q. Okay. Do you recall exactly when these letters would typically come out, which month it is?

A. Those type of letters come out like right after Christmas, around Christmas, the first month of the new year which would be about January.

Q. And as I understood you to say that since you were always at the school you just got your letter at school when they would bring them by to the school that you were working at; is that it?

A. I would receive this from the principal or they would say come to the office and the secretary would have the letters of intent.

Q. Okay. And had you ever heard of the school district mailing out letters of intent to teachers that were not at school the day that the letters came to the school?

A. I never heard of that. I never had to deal with that situation.

Q. Now I understand that you were out on

your sick leave during this time that you typically would have received the letter of intent, but since you weren't at school you didn't get one.

MS. ROSS: I'm going to object to form. She was out on Worker's Comp. I don't know that she was out on sick leave.

Q. (By Mr. Schrader) Okay. While you were out attending to your back injury, you weren't able to get your letter of intent while at school; is that right?

A. **No.**

Q. Okay. Did you ever call to the school and request a letter of intent for you to sign?

A. **No.**

Q. Okay. Did you ever at this point prior to May 2011, did you ever provide any written notification to the school district that you intended to return for the following school year?

A. **No.**

Q. Now at the end of the school year, you were still out on your -- the doctor still had you off work; is that correct?

A. **Yes.**

Q. And were you still receiving Worker's Comp at the end of the school year?

A. **When you say at the end of the school year, you mean --**

Q. The end of May?

A. **Yes.**

Q. You were still getting your Worker's Comp?

A. **Yes.**

Q. Okay. Did you receive Worker's Comp benefits up through June 6th, 2011?

A. **Correct.**

Q. Okay. Do you know the total amount of Worker's Comp that you received between August 17th, 2010, and June 6th 2011?

A. **No.**

Q. Okay. Do you have any documents that would indicate that?

A. **Yes.**

MR. SCHRADER: Would you provide those documents to your attorney and let her take a look at them before -- we're going to request those documents through a formal request, but if you would get those ready and provide those to your attorney I would appreciate it so that we would have an idea of exactly how much Worker's Comp you received.

Q. (By Mr. Schrader) Now I understand that you were out on your FMLA leave at the same time of receiving your Worker's Comp benefits; is that correct?

A. **Apparently, yes.**

Q. Okay. Are you aware when your FMLA leave expired?

A. **No.**

Q. Did anybody at the school district ever provide you any notification when your FMLA leave was to expire?

A. **No.**

Q. Did you ever have occasion to go to central office to inquire as to whether or not you would have a job for the fall of the year?

A. **Yes.**

Q. Okay. When did you do that?

A. **I made a phone call. Actually, while I was out on medical leave, I would keep in contact with the office with not just the stuff from the doctor and what have you, but I was reported to -- that I had to see a Ms. Johnson, I don't know her first name, and I think that's her secretary's came in and said that she was going to be dealing with me in reference to my situation.**

Q. Okay.

A. **And I called and I made an appointment to see her, and I went in to see her and she told me that since I was already on medical leave, she didn't have anything definite to speak with me about. But she did say that when I get my medical release from the doctor I must make an appointment to come in and see her and she would speak with me then. But as far as she can see in my file that all I needed was a placement to go back into the classroom and she will discuss that with me when I get my release from the doctor.**

Q. Okay. Was all that discussed during one telephone call?

A. **No. That was in person. I spoke to her and I went in to see her after I made an appointment to see her, and that was discussed when I made the appointment to see her. And that was like two weeks and a half prior to the doctor's release, which was the 6th of June.**

Q. Okay. The 6th of June was when you were released from the doctor?

A. **Right, but I spoke with her about two and a half weeks prior to that date.**

Q. Now while you were out between

August 17th and June 6th, did you talk to anyone else other than Ms. Johnson about your intent to come back to teach, anyone else at the school district?

A. **I kept in contact with my principal from August 9th to December of 2009 because I was told that since he was my administrator, my supervisor, immediate supervisor, I was to keep in contact with the school and him to let them, you know, be aware of what was happening to me in my case. So, yes, I did. It was Dr. Wiggins.**

Q. Dr. Wiggins?

A. **Yes.**

Q. Dr. Wiggins, was he the principal of --

A. **WCI.**

Q. WCI?

A. **Yes.**

Q. Okay. And your contact with Dr. Wiggins would have been between August and December 2009?

A. **Right, right.**

Q. Okay. After December 2009 and your meeting with Ms. Johnson, did you speak with anybody else up at the school district about your intent to return to work?

A. **Well, after that I also spoke between, I left messages with his secretary. Sometimes I didn't**

get Dr. Wiggins. But between that time, no, because I personally felt that they knew I was interested. I was bringing in my releases and everything. I mean, I showed an interest actually.

Q. And how many meetings did you -- before June 6th, how many meetings did you have with Ms. Johnson?

A. **One. I had one.**

Q. And she informed you that once you were released back to work that you needed to bring that back to the school district and they would see about finding a place for you with the school district?

A. **Yes, uh-huh.**

Q. And then you went to see Dr. Senter on June 6th?

A. **Uh-huh, yes.**

Q. He released you back to work; is that right?

A. **Correct.**

Q. Okay. Now after you were released from work, did you have occasion to talk to anybody at the school district about teaching the following school year?

A. **Okay. Yes and no. I can explain.**

Q. Okay. That would be great.

A. **After I got the release from Dr. Senter, I tried to get in contact with Ms. Johnson just like she stated. Now you can't just go and see her. You have to make an appointment to see her. I tried to make an appointment with her secretary and her secretary said she can't make appointments for her. She has to make them herself.**

Q. Okay. Who is Ms. Johnson's secretary?

A. **I have no idea. I don't know her. I heard her voice on the phone.**

Q. Okay.

A. **I called and spoke with her like a week trying to make an appointment but never did speak to her and she never returned my call. One day out of the blue, Charlotte Grant -- she works in the personnel office and she works also with Ms. Kavanaugh, informed me on the phone that if I wanted to seek a teaching position in the district, I need to reapply in order to be considered for a teaching position.**

Q. Okay. Do you remember when you spoke with Ms. Grant?

A. **Not the exact date, but I know it was like a week and a half after the date of the 6th of June.**

Q. Okay. Did she tell you anything that you would need to submit for consideration in being rehired?

A. **She said to reapply.**

Q. Reapply.

A. **So I took that as resume, everything, you know, when you are reapplying for a job.**

Q. Okay. Did Ms. Grant ask you for a copy of the return to work slip?

A. **No, she did not.**

Q. Okay. And had you provided the school district with a copy of that prior to hearing from Ms. Grant?

A. **Not at that time.**

Q. Okay. What did you do after Ms. Grant informed you that you would need to reapply for employment?

A. **Okay. I went and I got my resume together and all that I needed to reapply. I took the package to the district office.**

Q. Okay.

A. **And I took a copy of each to several schools to their offices for the principals because sometimes principals have interviews and choose who they want to come. That's what I did. I also at**

that time I did turn in the release form to Gail Kavanaugh.

Q. Okay. So you would have given the release to Gail Kavanaugh?

A. **Yes.**

Q. Okay. Do you remember the date that you gave that release to Ms. Kavanaugh?

A. **No, I'm sorry.**

Q. Do you remember the month?

A. **It was June. It was just after I got that phone call, actually. I was trying to get everything back in order. So I would say about the third week of June, but it took me a week to get in contact with them to tell me this stuff and a week after that I got everything in order.**

Q. Okay. So you would have given that slip, Dr. Senter's return to work slip, to Ms. Kavanaugh?

A. **Yes.**

Q. Did you give her a copy or an original?

A. **I believe I gave her the original. I kept the copy.**

Q. Okay. Did you make the copy at home or had them make it up at the central office? Where did you get your copy?

A. **I made my copy at my house.**

Q. So as you remember it, you provided the return to work slip around the third week of June to Ms. Kavanaugh?

A. **Correct. Can I interject something?**

Q. Sure.

A. **My intention was to give the return to work slip to Ms. Johnson that I was supposed to have a meeting that I never got.**

Q. Okay.

A. **So when I got this call saying about reapplying, I didn't see the sense at that time really because what was the point. But then I was informed by my attorney that I should have gotten it in.**

MS. ROSS: Excuse me. Don't get into what we talked about.

THE DEPONENT: Okay.

Q. (By Mr. Schrader) Did you receive any other telephone calls about your reemployment after June 6th?

A. **You mean after I give the --**

Q. Well, let me go back over the telephone calls that I was aware of. Prior to June 6th, you had spoken with Ms. Johnson before you were released to come back to work, right?

A. **Uh-huh, correct.**

Q. Okay. And after you were released you made efforts to schedule an appointment with Ms. Johnson to discuss with her your coming back?

A. **Correct.**

Q. And you weren't able to get in touch with her? She wouldn't return your calls.

A. **Correct, I left messages.**

Q. And then a week or two after that you received a call from Charlotte Grant letting you know that if you wanted a teaching spot that you needed to reapply?

A. **Correct.**

Q. And it's my understanding that after that telephone call that you got your resume and other information together. Did you submit that to the central office or just to the principals?

A. **To the central office, the personnel and to the principal.**

Q. Okay. Did you meet with any principals for interviews?

A. **Nobody contacted me. Nobody.**

Q. Okay. Other than Mrs. Grant and Ms. Kavanaugh, did you speak with anybody else over at the central office about your desire to come back

to work for the following school year?

A. **Well, Ms. Johnson was aware I wanted to come back. Apparently, I don't know -- she didn't want to discuss it since I was still on medical leave. I don't know what was the reason. But she told me when I get the release to come back, and that from what she sees in my file all I need is a placement to be placed in the school and we would discuss that when I get my release. That was my understanding.**

Q. Now while you were out on Worker's Comp or when you were missing work due to your back injury, did the school district maintain your health insurance?

A. **Yes, but there was a portion that I had that was extra, and every month I would send a check to Ms. Adams. She was over the insurance, and I would send her a check for my portion every month.**

Q. Okay. Now the portion that you had to pay, was that for spouse or for children?

A. **No, that was dental, eyes and all that.**

Q. Okay. That was your portion that you kept up with and then the school district was continuing to pay the premium to keep you covered under their plan?

A. **Correct.**

Q. How did you provide these -- let's go back through them one by one. The last one has the return to work slip on June 6th, 2011. And as I understand it, you gave this to Ms. Kavanaugh at the school district?

A. **Uh-huh.**

Q. On the other ones throughout the year from September 3rd, October 15th, January 3rd, and March 7th, how did you send these?

A. **Those were hand-delivered.**

Q. Hand-delivered to central office or to your principal?

A. **Hand-delivered to the central office.**

Q. Okay. All of these were hand-delivered?

A. **Yes.**

Q. Okay. And were you also hand-delivering your medical record information, the information that Dr. Senter signed saying that this was a certified emergency. Did you hand-deliver that to central office or did he send that in?

A. **I have no record of that so I believe he probably sent that in.**

Q. Okay. What other documents would you provide to the school district while you were out

attending to your back injury, what other documents besides these return to work slips would you have brought up to central office?

A. **That's it.**

Q. Just these return to work slips, okay.

A. **That's all that was given me, actually.**

Q. And did I understand you correctly to say that you never had occasion to provide any written notification to the school district that you intended to return. You didn't write them a letter saying I would like to return or anything like that?

A. **No.**

Q. Okay. Just your calls you would make?

A. **Sometimes I would call and speak on the phone to Ms. Kavanaugh or Ms. Grant, you know.**

Q. Okay. Do you know if you have ever been paid for your sick leave or your personal leave that you had built up with the school?

A. **I'm unaware.**

Q. Okay. The information that I got from central office indicates that in August and September you were paid a total of -- this is your gross income. This is before taxes and all that, gross payments made by the school district were $4,699.80.

A. **For which months?**

Q. For August and September?

A. **Of 20 --**

Q. 2010. Does that sound right to you?

A. **No, it does not.**

Q. Okay.

A. **They were taking stuff and putting it in your direct deposit.**

Q. Okay.

A. **I wasn't getting any kind of slips or any forms. I think you normally suppose to get like a form that says something when something is deposited. I didn't get anything from them. I was down in bed for months, so, no. And I don't recall that kind of money.**

Q. Okay. Do you have any idea how much money was -- well, let me go back. When my wife gets paid she gets paid direct deposit. Is that how you would receive your paychecks?

A. **Yes.**

Q. Okay. And even in August of 2010, your salary was direct deposited into your checking account?

A. **Correct. At that time they would give us a slip. That was with Dr. Price.**

Q. Okay. And was that slip like in your

mailbox at school?

A. **Or they would mail it to you at your house.**

Q. Okay. Do you have any record that show how much money was deposited into your checking account. I'm presuming that it was your checking account. Did your paychecks go into your checking account or savings account or what kind?

A. **Checking account.**

Q. Checking account. Do you have any documentation showing how much you received from the Vicksburg Warren School District between August 2nd, 2010, and May 24, 2011?

MS. ROSS: Her account would show it.

A. **Well, it would show it. I might have to go to the bank and get that. Because I think after a certain amount of time when you go online -- because I tried to do that, but it says after a certain amount of time you can't.**

Q. (By Mr. Schrader) What bank do you use?

A. **Trustmark.**

Q. And you still use that same account that was open during that time?

A. **Correct, uh-huh.**

Q. So as we sit here today, you don't know

if you've ever been paid for your sick leave or your personal leave?

A. I'm not sure.

Q. Okay.

MR. SCHRADER: And I forgot to tell you when we first started, if you need a break for anything, please let me know and we'll be able to take a break if you need it.

Q. (By Mr. Schrader) The next document I would like you to take a look at is the complaint that was filed in this lawsuit. If you'll take a look at that for a moment, I've got some questions about that. Do you recognize this as the complaint that initiated your lawsuit against the school district?

A. Yes.

Q. Okay. Prior to it being filed, did you have the occasion to review it, to understand what it was saying and what it was asking for?

A. Yes.

Q. All right. I see up in the top right-hand corner that it indicates that it was filed on July 18th, 2011?

A. Correct.

Q. All right. And could you just give me an

idea of what prompted you to file the lawsuit against the school district?

A. Okay. What prompted me was the run-around I was receiving after I got my medical release from the doctor. Because I have never been in a situation like this before. I didn't know what the logistics was or what the protocol was, but I thought that I did everything in my -- whatever I thought was correct. I gave my medical releases, whatever the doctor gave me I was presenting, whatever was happening with Worker's Comp or whatever was happening with my back was sent to Worker's Comp, which was with the district. I gave her copies of everything what was going on. By me keeping in contact with the district with what I was doing, I assumed that showed interest to continue working as an employee. So after dealing with Ms. Johnson and not dealing with her or her not dealing with me to me the way I felt I should have been dealt with, given this phone call if I wanted to be considered as an employee I had to reapply, I had no other choice but to seek action of an attorney.

Q. Okay. Do you remember when you submitted your resume and other information for consideration for reemployment?

A. Yes.

Q. When was that?

A. Right after I spoke with Ms. Grant on the phone and she told me that.

Q. Would that have been in June or July?

A. That was in June, the same month. I did everything really back to back. At that time I was waiting to hear back from Ms. Johnson, actually. I keep calling leaving messages, calling leaving messages. I spoke with her secretary, but her secretary tells me she cannot make her appointments. And then I finally got this call from Ms. Grant telling me this stuff, so I just said, okay, you know. I did what I felt I had to do.

Q. What other information would you have submitted to the district other than your resume when you went up to the district to provide them with reemployment, the other information?

A. I think I may have had a cover sheet, I think. That's what I gave the schools also.

Q. Okay. Did you follow up with anybody in July about potential employment with the school district?

A. The Vicksburg School District?

Q. Yes, Vicksburg School District.

A. Well, after giving my resume and my cover letter -- well, not to the district, but giving my stuff to different schools. I called several schools and I spoke to secretaries.

Q. Several schools in the Vicksburg Warren School District?

A. Yes. Several schools. I spoke to Warren Central Jr. High, Vicksburg Jr. High, and I received no -- anything. No phone call, letter, nothing. Nothing. I received no word whatever by the mail or telephone from the central office, because they're in positions also where they can send you to a school without having to go to the principal. I heard nothing. Absolutely nothing.

Q. Okay. What grades are you certified to teach?

A. I am certified to teach grades four through eight.

Q. Okay. And while you were out with your injury, did you keep up with your CEU's to maintain your license? How often do you get re-licensed?

A. Every five years.

Q. How often do you renew your license?

A. It's due in 2013, so I still have some time to get what I need to get together.

Q. Would you take a look at paragraph 9 of your complaint there, and I would like to ask some questions about this paragraph. It indicates -- I'm going to read this and I'd like you to tell me if I'm reading this right.

(Reading) In June 2011 after Gumbs-Gray's physician released her to return to work, she contacted school officials and was told that she should submit a resume and letter of intent in order to be considered for employment. The school official that you were talking about there, would that be Ms. Grant?

A. Correct.

Q. Okay. And then the next sentence says, (reading) School officials failed to pay Gumbs-Gray salary for the months remaining on her contract after she was released from the doctor's care. Did I read that correctly?

A. Correct.

Q. Okay. How much do you contend that the school district should have paid you that they hadn't already paid you before?

A. Okay. The 3,000 and change that you told me about monthly without tax taken out times two or less a little for the one week. So that amount times two less one week.

Q. Okay. So that would be the month of June and July of 2011?

A. Correct.

Q. Less one week. Okay. Now we talked earlier about you had received a paycheck at the end of August; is that right?

A. Yes.

Q. Okay. And during August you worked about nine days?

A. About.

Q. Okay. And that you didn't work any other days throughout the year. Okay. Now other than those nine days, did you do any work to earn that salary that you claim that you're owed?

A. I didn't work.

Q. Did not work. Okay. Do you contend that you worked days during the 2010/2011 school year that you were not paid for?

A. I don't quite understand. Can you rephrase that?

Q. Sure. Did you work any days in 2010/2011 that you were not paid for?

A. No.

Q. So can you explain why the school district would need to pay you for June and July when you didn't provide any teaching days to earn that salary?

A. I was under contract. I was hurt on the job working for them, no fault of my being injured on the job, had no intention of being out all that time, but due to the type of surgery that I had, I had no other choice. I would have been on my job doing my job if that did not occur.

Q. While you were out with your back injury, you received Worker's Comp payments, correct?

A. Correct.

Q. And the amount of that was $828 every two weeks?

A. Correct.

Q. Okay. At the end of every month -- let's go back to the prior school year, 2009/2010. You would get paid once a month, correct?

A. Correct.

Q. And that would be at the end the month?

A. Correct.

Q. The last business day of the month?

A. Correct.

Q. And that was direct deposited into your account?

A. Correct.

Q. What was your typical paycheck every month in 2009/2010?

A. You mean with taxes taken out?

Q. Yes.

A. It would be about $2,300.

Q. $2,300?

A. Give or take, about that.

Q. And back in the year of 2010, the school year of 2010/2011, your contract called for you to work 187 days and in return they would pay you $41,515; is that correct?

A. Correct.

Q. And you worked nine of those 187 days; is that right?

A. Right.

Q. So you missed 178 days on your contract; is that right?

A. Correct.

Q. And as we sit here today you feel that the school district should pay you for days that you didn't work; is that right?

A. Well, when you put it in those words, but since I was injured on the job, I do, yes. I do.

Q. And you received payments while you were

off through Worker's Comp, right?

A. Through Worker's Comp, yes.

Q. So even though you weren't working those 178 days, you were getting paid?

A. Paid, but not my salary.

Q. Okay. How much less were you being paid than what you would have earned if you had worked those 178 days?

A. Okay. Say that again.

Q. How much less were you being paid than you would have made if you had worked the 178 days?

A. Okay. If you multiply 828 times two and you subtract that from 3,000 and change, whatever difference that would be. I have no idea what that would be.

Q. So the 3,000 you're talking about is the $3,459.58; is that right?

A. Correct.

Q. Okay. And that would be your monthly salary before taxes?

A. Correct.

Q. Okay. They will withhold your taxes, and they would withhold whatever withholdings that they needed to give you your net pay?

A. Correct.

Q. And as we sit here today you can't recall the exact amount of your net pay that would have been paid?

A. You mean from the district?

Q. Yes.

A. I thought I had that with me, but I do not.

Q. Okay.

A. Not that what I have is up to date, but that's the last thing.

Q. Okay. What is your current salary?

A. My current salary?

Q. Yes. Is it $42,010?

A. Uh-huh.

Q. So as we sit here today one of the elements that you're asking the court to award you is two months of your gross salary less the first week in June; is that right?

A. Yes.

Q. Do you have a total number for the amount of wages or salary that you're asking for?

A. Whatever it would have been for those two months less the one week.

Q. And you do agree that out of the 187 days that you were supposed to work, you only worked 178

of those days; is that correct?

A. Repeat?

Q. Out of the 187 days that you had agreed to work, you only worked 178 of those days; is that correct?

A. No.

Q. Okay. How many days of the 187 days under your contract did you work in that school year?

A. Nine.

Q. Okay. Nine?

A. Uh-huh.

Q. So, if I subtract nine days from 187, that leaves 178 days that you didn't work during that year, correct?

A. Correct.

Q. Okay. Now have you ever gone a period of time where you had taken off more days than you were allotted for your sick leave or personal leave in the seven years that you had been employed by the school district? Did you ever miss more days than you had paid time off?

A. No. This was the first time.

Q. First of all, how did you learn that the district had not planned on or had not made arrangements for you to have a contract for the

2011/2012 school year? How did you learn that?

A. After receiving the phone call from Ms. Grant.

Q. And at that time did they tell you that they were not going to hire you?

A. Well, the wording that she said led me to believe that I was not going to be hired. Because if I had to resubmit an application and I been working with you for years, that tells me I don't have a job.

Q. Did you receive anything else that would indicate that they planned not to hire you back other than the telephone call?

A. The telephone call and something in the mail from the insurance telling me that effective July 31st my insurance was going to be terminated.

MR. SCHRADER: Before we go any further, can I get the complaint attached as an exhibit to your deposition. I believe that's going to be Exhibit No. 4.

MS. ROSS: No objection.

(EXHIBIT NO. 4 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Is this what you received in the mail that you were talking about. If you will take a minute to look through that.

A. There was another document that I

received from the insurance company that's not here that states that my insurance was going to be terminated. I received this, but there was something else that I received from the insurance company.

Q. Okay. The other document that you're talking about didn't come from the school district. It came from an insurance company?

A. That's correct.

Q. All right. And what insurance company?

A. Blue Cross/Blue Shield.

Q. Okay. When did you receive the document from Blue Cross/Blue Shield?

A. Sometime during the month of July.

Q. Do you remember what part of July that you received that?

A. It probably was June. I have copies, but I didn't bring it with me.

Q. Okay.

MS. ROSS: I thought we produced it in the prediscovery disclosure. But if not, we will give you a copy of it.

Q. (By Mr. Schrader) Did you receive any other written notification that you were not going to be reemployed for the 2011/2012 school year?

A. No.

Q. Okay. Now, as I understand it, the only written documentation that you received notifying you that you were not going to be reemployed was the document from your insurance company and the letter that was sent -- let me just scratch that question.

Now Ms. Ross indicated that in the prediscovery disclosures the document from the insurance company was supposed to be attached. And what I have listed here on your prediscovery disclosures is the State and School Employees' Health Insurance Plan Continuation Coverage Election Notice.

MS. ROSS: She didn't prepare that document, so I would object to that.

Q. (By Mr. Schrader) Right. So I'm going to ask if the State and School Employees' Health Insurance Plan Continuation Election Notice, is this document here the one that you would have received from the insurance company?

A. I received that from Ms. Adams. I believe she sent that to me. I don't believe I got it from the insurance company. It was another document from them telling me, yes, I been under their plan since 2004, and effective July 31st, 2011, that I've been terminated. I got this one, and I received the other one I'm telling you.

Q. Another one. Okay. All right. And what confuses me at this point is that in the initial disclosures, the document listed is the State and School Employees' Health Insurance Plan Continuation Coverage Election Notice.

MS. ROSS: And we told you that the document that she's talking about is two different documents, and we will provide the document. The one-page document that she received that let her know that she had been terminated and giving her notice of her COBRA rights. And you don't get a notice of COBRA rights unless you've been terminated.

Q. (By Mr. Schrader) And that's a letter different than the one that the school sent you?

MS. ROSS: That's right.

MR. SCHRADER: Okay. I got you.

A. And we're talking about that one that the school sent me? That's what you're saying.

Q. (By Mr. Schrader) Right.

A. Okay.

MR. SCHRADER: Let's get this one marked as Exhibit 5 so that I don't confuse myself. Do you have any objections to that?

MS. ROSS: No objections.

MR. SCHRADER: Okay. We'll get that marked. I think that will be Exhibit No. 5.

(EXHIBIT NO. 5 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) I'm going to hand you what's been marked as Exhibit No. 5. And if you will take a look at this, and I want to make sure my understanding is correct. This package of documents is what you received from the school district?

A. Yes.

Q. You received other information from Blue Cross/Blue Shield?

A. Correct.

Q. Okay. And it was your understanding or your recollection that the documents you received from Blue Cross/Blue Shield were dated in June?

A. Correct.

Q. Now upon your learning that you would need to reapply for employment, did you have any occasion to contact the Vicksburg Warren School District school board about your concerns you were not going to be reemployed?

A. No.

Q. Is there a reason why you didn't contact the school board?

A. I have never been in a situation like

this before. I had no idea what the protocol was.

Q. Did anyone ever suggest to you that you needed to speak with the school board about getting a contract for the next school year?

A. No.

Q. Okay. None of your teacher friends or anybody at the school?

A. No.

Q. In the complaint that was filed starting on paragraph 8 of the complaint on page 3. And I'd like you to follow along with me if you will. It says, (Reading) In Mississippi certified teachers who have been employed by a school district for at least two years, are entitled to notice and a hearing before they can be suspended or terminated and/or their contract can be non-renewal. Did you ever receive any other written notice other than the COBRA information?

A. No.

MS. ROSS: Well, let him finish his question before you answer.

Q. (By Mr. Schrader) All right. As we sit here today I understand that you received a packet from the school district letting you know that if you wanted to continue your health insurance you would need to pay the COBRA premiums. You also received a letter from Blue Cross/Blue Shield providing you information about what to do to continue your coverage; is that right?

A. Correct.

Q. Okay. Other than those two documents, did you receive any other documentation indicating that you were not going to be renewed for the 2011/2012 school year?

A. No.

Q. Okay. Did anybody at the school district ever tell you that you would not be rehired for the 2011/2012 school year?

A. No.

Q. Okay. When you came to believe that you were not going to be rehired, did you do anything to request a hearing as to whether or not you were going to be renewed?

A. No.

MS. ROSS: Objection. I mean, she's not required to request a hearing until she's put on notice that she's being non-renewed or suspended or terminated.

Q. (By Mr. Schrader) Okay. You received two letters, one from the school district and one from your insurance company. And after reading those two letters it was your understanding that you were not going to be renewed, your employment was not going to continue to the 2011/2012 school year; is that correct?

A. Yes.

Q. At that point was it your belief that you were not going to be rehired?

A. That along with the phone call I received from Ms. Grant, yes.

Q. Okay. And after that did you request any hearing to reconsider any decision that was made not to rehire you?

A. No.

Q. Okay. Do you have any knowledge that any of your attorneys ever contacted the attorney for the school board to discuss whether or not you would be rehired for the 2011/2012 school year?

MS. ROSS: Objection to what her attorney did. That's privileged information and also the law does not require her to do any of these things. The burden is on the school district, so she's not going to answer any questions about what I did.

Q. (By Mr. Schrader) Other than what your attorney has told you, do you have any independent knowledge as to whether or not your attorney ever spoke with the attorney for the school board to discuss whether or not you're going to be rehired?

MS. ROSS: That's not what the law requires, and I'm going to direct her not to answer that.

MR. SCHRADER: Under What privilege?

MS. ROSS: I think that's irrelevant. It's irrelevant. Show me any statute that says that the attorney is supposed to do those things, any basis for that.

MS. SCHRADER: I'm not saying that they're required to. I'm just asking if that happened.

MS. ROSS: Well, I can tell you no, and that she's not required to do it.

MR. SCHRADER: Okay.

Q. (By Mr. Schrader) In the complaint on page 4, paragraph 12 it reads: Plaintiff contends that she had a clearly established right to a due process hearing prior to being removed from her teaching position. Did I read that right?

A. Yes.

Q. Okay. Did you do anything to request a

due process hearing?

A. No.

Q. All right. What has the school district done to deny you the right to a due process hearing during which would be discussed your employment for 2011/2012?

MS. ROSS: Objection. That calls for a legal conclusion, and I direct her not to answer that. I mean, you know what they did. They didn't give her notice that she was being removed. That's what triggers her right to request a hearing. But it calls for a legal conclusion. That's attorney's writing. That's not her.

Q. (By Mr. Schrader) Are you aware of anything that the school district did to deny you the opportunity to have a due process hearing?

A. I don't understand.

MS. ROSS: Objection. It's calling for a legal conclusion, and she just told you she doesn't understand the question. You know what the statute says and I know what the statute says is supposed to happen before she's relieved of her duty and told to reapply.

Q. (By Mr. Schrader) All right. In response

to that, the statute indicates that if the school district or superintendent desires not to renew employment of a teacher that they give that teacher written notice and they give that teacher an opportunity for a due process hearing, if that doesn't happen, then the school district, the school board shall provide a contract for employment for the following year. Are you following me so far?

A. Yes.

Q. Okay. You did receive an employment contract for the 2011/2012 school year; is that correct?

A. Correct.

Q. All right. When did you get that?

A. August 4th of 2011.

Q. I'm going to hand you this document and I would like you to tell me if that's that contract that you received for the 2011/2012 school year?

A. It is.

Q. All right. Now you signed this contract on August 4th?

A. Yes.

Q. And you have been teaching for this school year?

A. Correct.

Q. Okay. Now in your complaint in your lawsuit you're asking that the court enjoin the defendants from violating your Constitutional and protected rights and also award the contract for the 2011/2012 school year; is that right?

A. Correct.

Q. Okay. And now you have your contract for the 2011/2012 school year?

A. Correct.

Q. Okay. So you're still asking the court for that contract?

MS. ROSS: She asked them for it when it was filed on July 18th because she hadn't received it. So, of course, that would be done now.

Q. (By Mr. Schrader) Okay. So you're no longer asking the court for that one; is that right?

A. Correct.

MS. ROSS: It's already happened.

Q. (By Mr. Schrader) And you're also asking the court for your attorney's fees, cost and expenses of litigation?

A. Yes.

Q. Okay. How much have you paid your attorney to represent you in this case? Okay. If

you're going to be asking for it at trial.

MS. ROSS: $7,500 retainer.

Q. (By Mr. Schrader) All right. Is there anything other than the $7,500 that you have paid?

MS. ROSS: The filing of the complaint, serving the complaint.

Q. (By Mr. Schrader) Okay. What we're here today for is for us to know exactly what it is that you're asking for from the court.

A. Okay.

Q. So $7,500 retainer fee. Is that refundable or nonrefundable?

MS. ROSS: I'm working. I'm still here so, I don't think so.

Q. (By Mr. Schrader) Okay. Has the $7,500 been entirely earned by your attorney at this point?

A. Yes.

Q. Okay. Do you expect to pay your attorney for that $7,500?

MS. ROSS: It's ongoing.

A. Yes, because it's ongoing.

Q. (By Mr. Schrader) Okay. Are there any outstanding bills you've received from your attorney that exceeded the $7,500 that you've already paid?

A. Not at this time.

Q. Okay. And the cost of filing this lawsuit. Do you know how much that is?

MS. ROSS: 350. I think 350, 375.

Q. (By Mr. Schrader) Okay. Are there any other attorney's fees, cost and expenses, other than the $7,500 retainer fee that you paid and the $350 filing fee?

A. **No.**

Q. So at this point that's all of your attorney's fees, cost and expenses for litigation; is that correct?

MS. ROSS: And the deposition today, cost of the deposition.

Q. (By Mr. Schrader) Okay. Deposition. So is that outside the $7,500 that you've already -- is the deposition cost outside of the $7,500 you've already paid?

A. **Yes.**

Q. And the attorney's fees that we can expect to hear about between now and trial, would those be on an hourly rate or fixed rate?

MS. ROSS: However the judge awards them. We will submit an hourly bill.

Q. (By Mr. Schrader) Okay. What's the hourly rate of your attorney, Ms. Gray?

MS. ROSS: That's going to be determined by the court. The court is going to decide what eventually it would be.

MR. SCHRADER: I expect that at trial, the plaintiff, Ms. Gray, will submit itemized billings to the court for consideration for payment?

MS. ROSS: No, no, not at trial. That doesn't happen at trial.

Q. (By Mr. Schrader) At the time that you request that your attorney's fees be paid, something will be submitted to the court explaining what charges you have incurred for attorney's fees. Is there a set hourly rate that you have agreed to pay your attorney to represent you in this matter?

MS. ROSS: She doesn't know the answer to that question. There is not a set hourly rate. We generally submit that to the court and ask the court to determine.

MR. SCHRADER: Submit what to the court?

MS. ROSS: We ask the court to determine the hourly rate in accordance with the rules of submitting two affidavits from two lawyers who's done work in this area who will say what my hourly rate should be.

Q. (By Mr. Schrader) Okay. So as we sit here today, Ms. Gray, your attorney has not presented you with an hourly rate that your attorney will expect to be paid for these proceedings?

A. **No.**

Q. Okay. Other than the contract for the 2011/2012 school year and the attorney's fees that you're asking for, is there anything else that you're going to ask the court for?

A. **Okay. I'm not sure if I can ask this question or not, but after dealing with the way I was handled with Ms. Johnson and after running around after I got word of this termination because I applied to other places for jobs. I went on -- interviewed for jobs trying to find something else, looking for a job. I don't know if any compensation could be put toward that. I know I was injured on the job, and I did get Workman's Comp, but still the pain and suffering, I don't know if that's applicable.**

Q. Okay. Is there a dollar amount other than the $7,500 attorney retainer fee, the $350 filing fee, the cost for this deposition. Is there any other dollar amount that you're going to ask the court for?

A. **I would ask the leniency of the court on their behalf to see if any more is due.**

Q. Okay. And what would be the basis for your asking that? What damages other than what we just discussed have you incurred?

A. **Pain and suffering.**

Q. Okay. Because of the injury at work?

A. **Correct.**

Q. Okay.

MS. ROSS: And the violation of her Constitutional right to due process.

Q. (By Mr. Schrader) Okay. And what dollar amount do you assign to the alleged violation of the Constitutional right to due process? What are you going to be asking for?

A. **Whatever the court --**

MS. ROSS: He wants you to assign a dollar amount, so take your time and assign a dollar amount. What amount do you want?

A. **With everything or just the part with my Constitutional rights?**

Q. (By Mr. Schrader) Just the part with your Constitutional rights right now.

MS. ROSS: It doesn't mean you're going to get it.

A. **I know, I know.**

Q. (By Mr. Schrader) But at this point this is our only chance to talk to you before trial. We won't be able to ask you any other questions face to face. And what we have to do is determine exactly what it is that you're going to be asking the court for when we show up at court. So far, what we have is you have asked for declaratory relief declaring for enjoining the defendants for violating your Constitutional protective rights and awarding you a contract for the 2011/2012 school year. And as we've discussed, that's already taken place. You signed the contract on August 4th for this year. So that's already been taken care of.

A. **Right.**

Q. And then the next item that you're asking for are attorney's fees, the cost and expense of litigation, which so far what I gathered from you was the $7,500 retainer free, $350 filing fee and whatever the cost for this deposition will be. Am I correct in that?

A. **Correct.**

Q. Okay. Now is there any other dollar amounts that you expect to ask the court to award you if this were to go to trial?

A. **Besides what we spoke about?**

Q. Yes, besides what we spoke about.

A. **Like I said, the pain and suffering and my Constitutional rights.**

Q. Okay. Now have you assigned a dollar amount to the value of the alleged violation of your Constitutional rights?

A. **I can put a figure, okay. Let's go with a hundred grand.**

Q. 100,000?

A. **Uh-huh.**

Q. Okay. And is that 100,000 because they didn't send you a letter letting you know that they weren't going to rehire you and not affording you the opportunity for a hearing?

A. **Correct.**

Q. Okay. 100,000 for that. And how did you come up with that $100,000?

A. **Well, actually, I didn't have any opportunity to really think about it. That was thrown at me and I just gave a figure actually.**

Q. So that I'm absolutely clear on what you're asking for as we sit here today is $7,500 for the attorney's retainer?

A. **Correct.**

Q. $350 for the filing fee?

A. **Correct.**

Q. Whatever this deposition is going to cost?

A. **Correct.**

Q. And a $100,000 --

A. **And I want to change something --**

Q. And a $100,000 because they didn't provide you written notice that you were not going to be reemployed?

A. **Correct.**

Q. Okay. Now you indicated that you wanted to explain something or change something.

A. **Yes. Well, I wanted to add in something for pain and suffering.**

Q. And that pain and suffering is only due to the --

A. **The injury to my back.**

Q. The injury to your back?

MS. ROSS: No, that's not related to it.

A. **That's not related to that.**

MS. ROSS: No. The pain and suffering is due to the violation of your Constitutional rights.

Q. (By Mr. Schrader) Okay. What pain and suffering have you sustained as a result of the alleged violation of your Constitutional rights?

A. **I had sleepless nights, I was under doctor's care for medical stuff for -- separate from Dr. Senter, another doctor that prescribed sleeping medication, anxiety.**

Q. Okay. What doctor is that?

A. **She served under Dr. Pierce. She's a Banks. She works right here in -- what they call it, Medical Associates.**

Q. Okay. Is she a nurse practitioner?

A. **Yes, that's what she is.**

Q. Okay. When did you see her?

A. **I was seeing her during that time and around that time when this was happening.**

Q. Can you narrow that down to a month?

A. **I saw her months prior to that, months after.**

Q. Months prior to?

A. **The dismissal and right after the dismissal -- well, I said dismissal. I feel like I was terminated and going through all of this stuff, trying to find a job.**

Q. Okay. You said months prior to being terminated?

A. She was my regular person I would go to see from time to time.

Q. Okay.

A. She has record of my medical history.

Q. Okay.

A. And she knows what was prescribed before and after and during the situation with the school district.

Q. Okay. What medications were you taking before?

A. You mean that she gave me because of the situation?

Q. Yes.

A. Zantax, if I remember right, and Ambien.

Q. And was that prior to you being released back to work?

A. That was one day when I realized I was terminated. I was trying to get back.

Q. That would have been in late June when that was prescribed?

A. Yes, in June, yes.

Q. Had nurse practitioner Banks ever prescribed those medications for you prior to June?

A. No.

Q. Okay. Did you see any other medical service providers for your pain and suffering caused by the alleged violation of the your Constitutional rights?

A. No.

Q. Just nurse practitioner Banks?

A. Yes.

Q. Okay.

A. There was another doctor that worked with her. His name is Craft, but basically it was her. It was only between the two of them, but she was the main one.

Q. Brandon Craft?

A. Oh, you are aware of him?

Q. Yes, yes. Okay. Is there anything else that you're asking the court to award you at trial?

A. That's about it.

Q. Okay. So that I'm absolutely clear, you're asking for the $7,500 attorney's fee retainer, $350 filing fee, the cost of this deposition and $100,000 for the alleged violation of your Constitutional rights; is that correct?

A. Correct.

Q. Okay. Who did you talk to when you signed your 2011/2012 contract for employment?

A. You mean who called me in?

Q. Yes.

A. Okay. I got a letter in the mail to go in to see Ms. Kavanaugh.

Q. You got a letter in the mail?

A. Uh-huh.

Q. And who was that letter from?

A. I believe it was from Mr. Swinford, the superintendent.

Q. Okay. What did that letter say?

A. Well, the letter said that I was -- the letter stated that I was being considered for reemployment, my interest for reemployment back to the district, and I don't recall whether I got a phone call to tell me to come in that Friday to get my contract signed. I don't think it was a letter. I think it was a phone call I received that stated that I had to go in by that Friday which was the 4th to get my contract signed.

Q. Okay. So did you receive a letter from Dr. SWinford?

A. The letter stated that it had come to her attention that I am interested in seeking employment in the district, the Vicksburg district.

Q. Okay. Do you remember the date of that letter?

A. No, but I think it was in July.

Q. In July. Okay. Do you still have that letter?

A. I have all of these things. Yes, I do.

Q. Okay. Now after you received that letter I understand there was a telephone call?

A. Yes, I received a telephone call telling me to report to Ms. Cavanaugh's office on Friday, which I did and signed this contract.

Q. Okay. After you received the letter from Dr. Swinford, did you call anybody at the district office?

A. No.

Q. Okay. Did you send a reply letter to Dr. Swinford's office or the school district office?

A. No.

Q. Okay. Just out of the blue you got a telephone call asking you to report on that Friday to see Ms. Kavanaugh?

A. See, all these things were going on here.

Q. Right.

MS. ROSS: And I think we were in touch with your office or there was another lawyer who was involved.

MR. SCHRADER: Warren? Warren Talbert.

MS. ROSS: The one who does the help -- I think it's the regular school board attorney.

MR. SCHRADER: Briggs, Hopson?

MS. ROSS: Yes, Briggs.

MR. SCHRADER: Okay.

MS. ROSS: We were in communication after they got the complaint and Briggs set that up.

Q. (By Mr. Schrader) Okay. All right. So you received a telephone call to go see Ms. Kavanaugh about the --

A. She was going to explain to me about safety and health issues because of my back situation back on the campus, and the contract was supposed to be signed also.

Q. Okay. And you met with her on August 4th?

A. Yes, in her office.

Q. Okay. And did you also take your return to work slip to Ms. Cavanaugh's office on August 4th?

A. They received that before because I dropped it off.

Q. Okay. When did you drop it off?

A. I dropped it off in June.

Q. Okay. And you talked to Ms. Kavanaugh in June as well?

A. No. What happened was when I dropped it off, it was going on 4:00 in the afternoon, and I gave it to the secretary at her desk in the front, and I told her to please make sure this was being delivered to Ms. Grant or Ms. Kavanaugh or Ms. Johnson, whoever I said, you know, whoever's doing the Workman's Comp at that time.

Q. Okay.

A. Because I was dealing with two all the time, and then it was switched to Ms. Johnson. I delivered it myself. It was hand-delivered to the secretary.

Q. All right. Do you know the secretary's name?

A. No. The regular secretary was there. She's a black lady, but it wasn't her. It was a Caucasian lady.

Q. Okay.

A. I don't know if she was filling in, but I've seen her there several times, you know, right in the front when you come in.

Q. Right.

A. I don't know her name, but they were receiving them all the time.

Q. So this would have been in June?

A. This was in June.

Q. And you took the June 6 report, Dr. Senter's return to work slip up to the district office and left it with the Caucasian secretary at the front desk?

A. Correct.

Q. And asked that it be forward to whoever was doing the Worker's Comp?

A. Right. Right.

Q. Okay. Do you have any belief as to why the school district would not have wanted to hire you for 2011/2012?

A. No reason whatsoever. Never had a problem before.

Q. Okay. So, I mean, you're not claiming that you were discriminated against or that they think you had done something wrong or anything like that?

A. No.

Q. Okay. And has anyone other than your attorney -- I'm not asking you for anything that your attorney has told you. But has anybody else from the school district ever explained to you why you did not get a contract for the 2011/2012 school year until August 2011?

A. No.

Q. Okay. Did you ask anybody at the school district why it took until August to do that?

A. No.

Q. Okay. And is my understanding correct, the only written documentation or request that you provided to the school district was maybe a cover sheet to your resume when you were reapplying for employment?

A. A cover sheet and a resume, yes.

Q. Okay.

MR. SCHRADER: I'd like to have the contract for the 2011/2012 school year attached as the next exhibit unless you have an objection.

MS. ROSS: No objection.

(EXHIBIT NO. 6 MARKED FOR THE RECORD)

A. I'm kind of curious about something.

MS. ROSS: You can ask if that's a concern.

A. Would all these documentations that came from the doctor -- okay.

Q. (By Mr. Schrader) I follow you.

A. Nothing was stamped except this one. Why is that? I'm just curious. Because these were all

sent in on a timely basis and so was that one.

Q. Okay.

A. **And I know for a fact that all was turned in in June.**

Q. All right. In your pointing that out, do you have any reason to believe that someone at the school district is being less than truthful?

A. **Correct.**

Q. Okay. Who do you think is being --

A. **I have no idea who stamped it. I don't know who did it.**

Q. Okay.

A. **It could be anybody. The board should know about it. I don't know.**

Q. Okay. It's my understanding that you left an original with the school district; is that correct?

A. **I believe I gave them the original. Usually I give them the original and keep a copy.**

Q. Okay. You have a copy of this?

A. **I don't have a copy of when I gave it to them stamped, but I gave them this.**

Q. Okay. Do you have any written documentation that indicates when you would have provided this slip on a date other than August 4th?

A. **No, because if you look, I don't have any written record on any of the others I listed, and these are regular just like the others.**

Q. Now I can't answer your question because I don't know who stamped that.

A. **I just thought that was kind of obvious.**

Q. Okay. If you'll take a look at page 4 of the complaint which is Exhibit 4. Paragraph 16 reads: Plaintiff contends Defendant Dr. Elizabeth and others used their apparent authority to cause Celia Gumbs-Grays contract as teacher to be unlawfully breached.

What is it that Dr. Swinford or other district employees did to breach the 2010/2011 contract?

MS. ROSS: Other than what she answered?

MR. SCHRADER: I need to know specifically what they did to breach the 2010/2011 contract?

MS. ROSS: I think y'all went over that when you went over the long recitation about them not paying her the two additional months. Do you remember that?

MR. SCHRADER: I remember we discussed it. So I'm asking Mrs. Gray.

Q. (By Mr. Schrader) Your complaint says that you're alleging that the school district breached the contract, and here's the contract. I'm asking exactly what did the school district do to breach this contract?

A. **They didn't pay the last two months that was due under the contract, okay.**

Q. Okay. Did you make a demand for payment of that salary? Did you ever ask them for that?

A. **No.**

Q. Did the school district do anything else to breach that contract in your opinion?

A. **No.**

Q. Just failure to pay the last two months. That would be June and July.

A. **Correct.**

Q. Okay. Now do you agree with me that you had not earned the last two months of that salary by working?

A. **Well, I did not work, but due to the injury I sustained on the job I was unable to be at work because of the situation. Otherwise I would have been at the school doing my job.**

Q. Okay. But you do agree with me that you didn't work to earn the last two months' salary?

A. **I agree I wasn't at my job, yes.**

Q. Okay. And according to this contract, if you work 187 days, they would pay you $41,515, correct?

A. **Correct.**

Q. And you didn't work the 187 days, correct?

A. **Not by choice.**

Q. Right. Due to a medical condition that you had, you weren't able to work those 187 days?

A. **Correct, medical issues because of the job.**

Q. Okay. Now has your Worker's Comp. claim been completely resolved?

A. **Yes.**

Q. Okay. You're not receiving any other benefits from Workers' Comp?

A. **No.**

Q. Okay. Do you expect to miss any more work due to your back injury?

A. **It depends, because as I'm sitting here, I always be in pain.**

Q. Okay.

A. **I have to take pain pills to sleep at night. Sometimes I have to take them in the day.**

Q. Do you currently have any other visits with Dr. Senter?

A. Not at this time, no.

Q. And Dr. Senter is the one that did the back surgery?

A. Correct.

Q. Okay. Are you seeing any other doctors besides Dr. Senter and Dr. Strong for your back?

A. Not at this time, no.

Q. Okay. Are you seeing any other doctors for any medical conditions that are related to the incident involving the student and Grove Street?

A. Not at this time, no.

Q. Okay. As you sit here today, can you think of any reason why the school district would not want to have you as a teacher?

A. None whatsoever. I have never had a problem all the years I have been teaching, never until now. I have yet to be told why I wasn't rehired at the time.

Q. Okay. Who have you asked to find out why you weren't rehired at the time?

A. My attorney is doing all of that for me.

Q. Okay. But you personally, you haven't asked anybody at the school district why you weren't rehired prior to filing your lawsuit?

A. When I spoke with Ms. Grant, I was in shock when she told me about reapplying. And I asked her after all I've been through with the student, the surgery, recuperating and all this, I don't no longer have a job. She informed me that she's only telling me what she's been told to tell me. I didn't ask a question. The people that I was supposed to ask that question to didn't return any phone calls.

Q. And who would that person be?

A. Ms. Johnson.

Q. Did you ever have occasion to speak with Dr. Swinford about this situation prior to your filing the lawsuit?

A. No.

Q. Okay. Did you ever attempt to talk with Dr. Swinford?

A. No. The reason why I didn't attempt to speak with her is because if you're going to terminate me and don't talk to me, explain anything to me, have no meetings with me, to me you don't have anything more to say.

Q. Okay. Do you have any knowledge as to the process that the school district goes through when considering the nonrenewal of a teacher?

A. To my understanding I'm supposed to have some kind of hearing or some sort of letter supposed to go out, some kind of hearing with them and the board or whatever. That's my understanding.

Q. Have you known any teachers that have gone through that process that were recommended for non-renewal and had a hearing in front of the school board? Are you aware of any teachers that have gone through that process?

A. Oh, yes, there is one, yes. Do you need a name?

Q. Who is that?

A. Wheatley. I don't know his first name.

MR. SCHRADER: Wheatley?

A. Wheatley.

MS. ROSS: That was last year.

Q. (By Mr. Schrader) Was he out at Grove Street?

A. Yes, he was.

Q. Was he the one that we read about in the papers about the alleged insubordination and not being renewed? Is that the gentlemen?

A. Yes, that's the same person.

Q. All right. Are you aware of any other teachers that have gone through that process?

A. No.

Q. Now did I understand what you have told me today is that the individuals that you spoke to regarding this situation was Gail Kavanaugh, Myrtle Adams, Ms. Grant, Charlotte Grant. You met with Ms. Johnson prior to June 6th?

A. Correct.

Q. She told you that once you were released for work to come on back and talk to her about getting placed in the district. Have you talked to anybody else in the school district about this case?

A. No.

Q. Okay. Any other teachers at your school?

A. Well, they're aware of some things that's happened, but I don't know to what extent.

Q. You're talking about teachers or principals or --

A. Yes, because, you know, people talk.

Q. Okay. After you received information from the insurance company leading you to believe that you would not be rehired, did you have occasion to speak with your principal at Grove Street?

A. I spoke with him, but he told me he didn't want to hear anything.

Q. He didn't want to hear anything?

A. **He said he didn't want to hear it.**

Q. That's Dr. Wymbs, Mr. Wymbs?

A. **Really, on the situation with the Worker's Comp -- okay, rephrase the question because you confuse me with principals. I had three, so I don't know which one you're speaking about.**

Q. Okay. You're right. You were at WCI when you went out for your back surgery.

A. **Uh-huh.**

Q. That's Dr. Wiggins?

A. **Wiggins.**

Q. Wiggins. Okay. Dr. Wiggins was your principal when you went out with your back surgery?

A. **Okay. Uh-huh.**

Q. And then the following summer in June, you received the information from Blue Cross/Blue Shield, did you have occasion to talk to Dr. Wiggins about whether or not you have a position?

A. **No, because when I spoke to him, I was speaking to Dr. Wiggins when I got over the surgery, and I was able to speak with him up to December of 2010. And the last time I spoke to him was not a very nice talk because he was very verbally not nice.**

Q. Okay. What was that about?

A. **I would call him every so often because I**

was told that he was my immediate supervisor, although I didn't give him these slips because that was going to the central office. Long story short, when I spoke to him that December, he took a long time before he would answer the phone. I was trying to get in contact with him for days. When he did come on the phone he took a long time to come and he was very not nice on the phone, like I was bothering him, and his attitude was you shouldn't be talking to me anymore, you need to be talking to central office because I had to give your position to someone else. So, you know, you don't need to be bothering me anymore, but I was kind of fronted with that and I didn't think that was professional.

Q. And you no longer spoke with him after December?

A. **Right, because his attitude was not good.**

Q. Okay. Is there anything else that you would like to tell me about this situation that you think would help me understand what's going on in this lawsuit?

A. **That's basically everything I guess.**

Q. Okay.

MR. SCHRADER: I'm just going to look over my documents, and if I don't have any

other questions that will be it. Let me make sure I got all of my exhibits straight. I think that's it. Did you-all want to read and sign?

MS. ROSS: Yes, we do want to read and sign.

(DEPOSITION CONCLUDED AT APPROXIMATELY 11:29 A.M.)

CERTIFICATE OF REPORTER

I, **ESTELLA WREN**, Certified Court Reporter in and for the County of Hinds, State of Mississippi, hereby certify that the foregoing proceedings, and including this page, contain a true and correct transcript of the proceedings as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision to the best of my skill and ability.

I certify that all witnesses were placed under oath by either the Court or the Bailiff to give truthful testimony in this matter.

I further certify that I am not in the employ of or related to any counsel or party in this matter, and have no interest, monetary, otherwise in the final outcome of the proceedings.

Witness my signature this the 18th day of May, 2012.

Estella Wren
ESTELLA WREN, CSR#1141

COPY

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AUG 0 4 2011
BY: ____

Mississippi Spine Clinic
971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 6/6 20 11

Celia Gray was seen in our office today. He / She

☒ May return to [✓ work] / school on 6/6 20 11.

☐ Will be re-evaluated for return to work / school at next appointment on:

____ 20 ____

WORK: (May return to the below duties on the below dates.)

Regular duty ____ 20 ____ Light duty ____ 20 ____

RESTRICT: ☒ Lifting to no more than: 40 pounds

☐ Standing/Sitting to no more than: ____ hours

☐ Working to no more than: ____ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ____ 20 ____

COMMENTS: ____

Signature ____

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EXHIBIT
G

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
FOR ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY, CELIA, 580-06-3048, and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) 2011-2012 and shall hold the position of licensed employee.

That the employee will be employed for 187 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/02/2011 and ending on 05/24/2012, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $42,010.00, which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer, the Mississippi Educator Code of Ethics and Standard of Conduct adopted by the state Board of Education, and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

Swinford	Celia L. Gumbs-Gray
Superintendent	**Employee**
08/04/2011	08/04/2011
Date	**Date**

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

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EXHIBIT
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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

MOTION FOR ADDITIONAL TIME

COMES NOW, Plaintiff Celia Gumbs-Gray, by and through undersigned counsel and moves this Court for additional time to file Plaintiff's Response to Defendants' Motion for Summary Judgment in the above referenced matter for the reasons set forth herein:

1. Plaintiff's response to Defendants' Motion for Summary Judgment is due on or about Thursday, June 28, 2012.

2. Due to undersigned counsel's workload, undersigned counsel will not be able to complete and file Plaintiff's Response to Defendants' Motion for Summary Judgment on or before Thursday, June 28, 2012 and is in need of ten (10) additional days to file same.

3. This request for the extension will not cause prejudice to any parties and is made in good faith, and not for the purpose of harassment or delay.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court will enter an Order granting Plaintiff ten (10) additional days to complete and file

Plaintiff's Response to Defendants' Motion for Summary Judgment. Plaintiff also prays for such other relief as may be proper under the premises.

RESPECTFULLY SUBMITTED this the 27th day of June, 2012.

/s/ Lisa M. Ross
Lisa M. Ross, Esq. (MSB#9755)
Post Office Box 11264
Jackson, MS. 39283-1264
(601) 981-7900
(601) 981-7917

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 27th day of June, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
(WESTERN)

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106-DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT, ET AL **DEFENDANTS**

REMINDER OF CALENDAR SETTING

This matter is currently set for a Settlement Conference on July 25, 2012 at 9:00 a.m. in Natchez, Mississippi. Refer to the below Alternative Dispute Resolution Requirements:

1. Mediation or Settlement Conference is required in all cases unless exempted by Local Rule or waived by the Court. 83.7 (e)(1)
2. ADR deadline is no later than the close of the discovery period. 83.7 (f)(2)
3. Advise the Court at least 30 days in advance of a scheduled Settlement Conference whether the conference would be beneficial and/or productive, or if it needs to be rescheduled or canceled.
4. Update, if necessary, 83.7 (g)(4) requirement of reporting prior mediations. (Form 7)
5. Comply with 83.7 (g)(1) fourteen (14) day disclosure requirement regarding parties necessary for meaningful mediation to occur.
6. Comply with party and counsel Appearance requirements of 83.7 (g)(2)(3).
7. Submit updated Settlement Memoranda seven (7) days before scheduled conference.

DATE: June 29, 2012

s/ John M. Roper, Sr.
CHIEF UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

ORDER

THIS MATTER came before the Court on Plaintiff's Motion for Additional Time to File Response to Defendants' Motion for Summary Judgment, and, this Court, having fully considered the Motion finds that the motion is well-taken and should be granted.

IT IS THEREFORE ORDERED AND ADJUDGED undersigned counsel shall file her Response to Defendants' Motion for Summary Judgment no later than ten (10) days from the date of this Order.

SO ORDERED this 28th day of June, 2012.

s/David Bramlette
U.S. DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

MOTION FOR ADDITIONAL TIME

COMES NOW, Plaintiff Celia L. Gumbs-Gray, by and through undersigned counsel and moves this Court for Additional Time to file Plaintiff's Response to Defendants' Motion for Summary Judgment in the above referenced matter for the reasons set forth herein:

1. On June 28, 2012, this Court granted undersigned counsel additional time to file Plaintiff's Response to Defendants' Motion for Summary Judgment.

2. Due to undersigned counsel's caseload, including but not limited to her duties as a public defender in Madison and Claiborne Counties, undersigned counsel has not been able to complete and file Plaintiff's Response to Defendants' Motion for Summary Judgment and is need of additional time to do so.

3. Undersigned counsel respectfully requests seven (7) additional days to complete and file Plaintiff's Response to Defendants' Motion for Summary Judgment.

4. This request for the extension will not cause prejudice to any parties and is made in good faith, and not for the purpose of harassment or delay.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that this Court will enter an Order granting Plaintiff seven (7) additional days to complete and file Plaintiff's Response to Defendant's Motion for Summary Judgment. Plaintiff also prays for such other relief as may be proper under the premises.

RESPECTFULLY SUBMITTED this the 10th day of July, 2012.

/s/ Lisa M. Ross
Lisa M. Ross, Esq. (MSB#9755)
Post Office Box 11264
Jackson, MS. 39283-1264
(601) 981-7900
(601) 981-7917

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 10th day of July, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY	**PLAINTIFF**
VS.	**CIVIL ACTION NO. 5:11CV106DCB-JMR**
VICKSBURG WARREN SCHOOL DISTRICT and DR. ELIZABETH SWINFORD, in her Individual and Official capacities	**DEFENDANTS**

ORDER

THIS MATTER came before the Court on Plaintiff's Motion for Additional Time to File Response to Defendants' Motion for Summary Judgment, and, this Court, having fully considered the Motion finds that the motion is well-taken and should be granted.

IT IS THEREFORE ORDERED AND ADJUDGED that Plaintiff shall file her Response to Defendants' Motion for Summary Judgment no later than seven (7) days from the date of this Order.

SO ORDERED this 12th day of July, 2012.

s/David Bramlette
U.S. DISTRICT COURT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her Individual and
Official capacities **DEFENDANTS**

PLAINTIFF'S RESPONSE IN OPPOSITION TO TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COMES NOW, Plaintiff Celia Gumbs-Gray, by and through undersigned counsel of record and moves this Court to deny Defendants' Motion for Summary in this action pursuant to Rule 56 of the Federal Rules of Civil Procedure. In support of her response, Celia Gumbs-Gray relied on the following documents:

1. Exhibit A, Deposition of Celia Gumbs-Gray
2. Exhibit B, Deposition of Elizabeth Swinford

In addition, Plaintiff also relied on exhibits submitted by the Defendants.

WHEREFORE PREMISES CONSIDERED, Plaintiff respectfully requests, for the reasons outlined in her Memorandum in Opposition to Defendants' Motion for Summary Judgment that this Court will deny Defendants' Motion for Summary Judgment and allow the finders of fact resolve the genuine issues of material facts that are in dispute in this matter.

RESPECTFULLY SUBMITTED this the 23rd day of July, 2012.

/s/ Lisa M. Ross
Lisa M. Ross, Esq. (MSB#9755)
Post Office Box 11264
Jackson, MS. 39283-1264
(601) 981-7900
(601) 981-7917

CERTIFICATE OF SERVICE

I, Lisa M. Ross, undersigned counsel for the Plaintiff do hereby certify that I have this day electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Philip Schrader, Esq.
W. Briggs Hopson III
Lauren Roberts Cappaert
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919

This the 23rd day of July, 2012.

//s// Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY
PLAINTIFF,

V.
CIVIL ACTION NO: 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD
DEFENDANTS.

* * * * * * * * * * * * * * * * * * * *

DEPOSITION OF CELIA L. GUMBS-GRAY

Taken on Tuesday, May 8, 2012, at the Law Office of Teller, Hassell & Hopson, LLP, at 1201 Cherry Street, Vicksburg, Mississippi, beginning at approximately 9:30 a.m.

* * * * * * * * * * * * * * * *

APPEARANCES:

PHILIP SCHRADER, ESQUIRE
Teller, Hassell & Hopson, LLP
1201 Cherry Street
Vicksburg, Mississippi 39183-2919
Counsel for Defendants

LISA M. ROSS, ESQUIRE
Attorney at Law
Post Office Box 11264
Jackson, Mississippi 39283-1264
Counsel for Plaintiff

REPORTED BY: ESTELLA WREN, CSR #1141
Official Court Reporter

EXHIBIT
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SIGNATURE OF WITNESS

I, _______________, do solemnly swear that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:

PAGE:	**LINE:**	**SHOULD READ:**	**REASON FOR CHANGE:**
____	____	_______________	____________________
____	____	_______________	____________________
____	____	_______________	____________________
____	____	_______________	____________________
____	____	_______________	____________________

____

(SIGNATURE)

NOTARIZATION

I, ________________, Notary Public for the State of __________________, ________________, County, do hereby certify that ______________ personally appeared before me this ______ day of _______________, 2012, at ________________, _________________.

____

(Notary Public)

My Commission Expires:

____

CELIA L. GUMBS-GRAY

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. SCHRADER:

Q. Would you please state your full name for the record.

A. My name is Celia Lorencia Gumbs-Gray.

Q. Okay. When you introduced yourself to me, you introduced yourself as Celia Gray. Would you like me to call you Mrs. Gray or Mrs. Gumbs-Gray? How would you like me to refer to you?

A. You can call me Mrs. Gray.

Q. All right. Mrs. Gray, what we're doing here is a deposition in the civil proceeding that was filed against the Vicksburg Warren School District. Have you ever given a deposition before?

A. No.

Q. All right. To give you an idea of what to expect. What we'll be doing here today is I'll be asking you a lot of questions about your lawsuit against the school district so that I can get a clear understanding of what your claims are against the school district. I'll be asking a lot of questions. And if at any time you don't understand any of the questions that I ask, if you'll let me know, I'll try to rephrase it or restate it so that you and I are on the same page. Okay?

A. Okay.

Q. And I'll ask if you have any confusion about any question that I ask you, let me know and I'll try to rephrase it. If I use any terms that you don't understand or you're not sure about, if you'll let me know we'll try to clear that up. If you answer a question, I'll assume that you understood the question, okay? Is that fair?

A. Yes.

Q. All right. We have a court reporter here that's transcribing my questions and your answers and any objections or any statements that Ms. Ross has. So I'm going to ask that prior to your answering a question if you'll wait until I'm finish asking my question and then you answer, and then I'll try to wait until you finish your answer before I ask another question so that the court reporter can get that. Okay?

A. Yes.

Q. Also, it's hard for her to take down nods or shakes of the head and I have a problem with doing that. And so I'm going to ask that if it's a yes or no question, that you will answer yes or no. It's hard to get the uh-huh and huh-uh down on paper.

A. Okay.

Q. Now before we get started, I'd like to have the Renotice of Deposition attached as an exhibit to the deposition. That will be our first exhibit.

(EXHIBIT NO. 1 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) All right. Ms. Gray, I assume you live here in Vicksburg; is that correct?

A. I do.

Q. And where do you live?

A. 2621 Roosevelt Avenue, Vicksburg, Mississippi.

Q. How long have you lived there?

A. About seven years, seven and a half years or so.

Q. Prior to moving into the Roosevelt Avenue address, did you live in Vicksburg?

A. Yes.

Q. Okay. How long have you lived in Vicksburg?

A. Okay. I got here in 2003. About eight years, eight or nine years.

Q. Okay. And where did you live before you moved to Vicksburg in 2003?

A. On Pearl Street. I cannot be sure of the number, but I know it was on Pearl Street.

Q. Okay. And are you married?

A. Yes.

Q. And what's your husband's name?

A. His name is Steve B. Gray.

Q. All right. And does Steve work outside the home?

A. Yes, he does.

Q. And who does he work for?

A. Right now he is working for Kroger. He's out in Pearl.

Q. In Pearl?

A. Yes.

Q. Pearl, Mississippi?

A. Pearl, Mississippi.

Q. Okay. And he lives here in Vicksburg, too?

A. Yes, he does.

Q. Okay. Now I understand that you're a teacher.

A. Correct.

Q. How long have you been teaching?

A. I would say about 20 years, plus. It

could be more than that.

Q. Okay. So I assume that before you moved to Mississippi, you were a teacher somewhere else?

A. Correct.

Q. Okay. What other states or countries did you teach?

A. On the Island. I worked with the Department of Education in the Virgin Islands.

Q. And what years was that?

A. Okay. Starting in '86, then I stopped in -- okay. I started in '86, I stopped in '92 or '93, and then I started back in '96. I stopped in 2003, and I'm here now.

Q. And is that when you moved to Mississippi?

A. Yes, that's when I moved to Mississippi.

Q. Okay. What brought you to Mississippi?

A. I got married to someone from Mississippi. He's from here.

Q. I see. And I trust that you hold a Mississippi license from the Mississippi Department of Education?

A. Yes.

Q. When did you receive that?

A. 2004.

Q. And have you taught for any other districts other than the Vicksburg Warren School District here in Mississippi?

A. No.

Q. Now I understand that you were hired in 2004 as a teacher for the Vicksburg Warren School District; is that correct?

A. Correct.

Q. And what school were you working at when you first hired on?

A. Grove Street School.

Q. Are you still at Grove Street?

A. No, I'm not.

Q. Where are you now?

A. Right now I'm over at Redwood Elementary School.

Q. Have you worked at any other schools other than Grove Street or Redwood?

A. I was at WCI very briefly for about two weeks.

Q. Okay. When was that?

A. That was in August of 2009 -- no, 2010.

Q. Okay. And any other schools in Vicksburg Warren School District other than Grove Street, Redwood or WCI?

A. Not as a licensed teacher, no.

Q. Okay. Have you worked at any other schools as something other than a licensed teacher?

A. Yes.

Q. What school was that?

A. When I first got here in 2004, I did some subbing, so I was at a different school whenever they needed a substitute teacher.

Q. Okay. What years were you at Grove Street?

A. 2004 when I started until about the end of the school year 2009.

Q. Okay. Would that have been 2009/2010 school year that you would have finished up at Grove Street?

A. I finished at Grove Street, yes, in '09.

Q. Okay. And then after Grove Street you went to WCI?

A. Correct.

Q. And you were only there for a couple of weeks?

A. Correct.

Q. Okay. And then I assume that you started Redwood for the 2011/2012 school year?

A. Correct. Right.

Q. What did you teach at Grove Street?

A. Okay. When I first started I taught pre-GD classes for seven and eight graders.

Q. All right. And is Grove Street the alternative school?

A. Yes, it is.

Q. Has it been the alternative school the whole time you were there?

A. Yes.

Q. All right. And what are you teaching at Redwood?

A. I have fourth grade.

Q. My wife is a fourth grade teacher at Beachwood. All right. And at WCI, what were you teaching?

A. I had fifth grade.

Q. All right. Now I understand that you were involved in an altercation in 2009. Was it 2009 that you were involved in an altercation?

A. Correct.

Q. Okay. Can you tell me what happened in that altercation?

A. Okay. It happened in the morning. The kids were just arriving at school. We were informed as teachers that when kids come to the classroom we should greet them at the door. But that particular school I was teaching at at the time was not like a regular school where kids would just walk around. We were informed by administration that when the kids get into the classroom do not let them walk the hallway, leave the room under any other circumstances unless it's an emergency due to the type of school we had because there were fights and what have you. So she came in and it took her a while for her to get to the room actually, because she was just late. I don't know what was wrong with her.

Q. This is a female student?

A. It is. She was about 260 plus, very heavy. She came into the room and after a while then she wanted to leave, and I refused to let her leave. I was standing in front of the door because I didn't allow her to leave. She tackled me out of the way. So when she tackled me I fell toward the floor, but I didn't hit the floor. I grabbed onto the side of the panel of the door and was able to catch myself before I hit the floor.

Q. Okay. And I understand that you were injured as a result of that?

A. Yes, sir, I got messed up.

Q. Okay. Did you leave school that day to go get medical treatment?

A. Yes. I didn't get to leave until later on because at that time I didn't know the procedure or anything. I didn't know the situation on that. I spoke to Ms. Grant from the main office and she told me she can send me to a doctor that the district knows which was a Dr. Easterling. And she was supposed to set up some sort of appointment to get me to see him and I made a phone call, which I got later on that day. I did not leave the school when that happened. Then I went to see him, and he spoke to me. He didn't examine me or anything. He sent me to get an x-ray, and he said seem like everything is fine; gave me some medicine and I went back to school.

Q. Okay. What date was the incident on? Do you remember?

A. It was September -- I'm not sure. I think it was September 19th. I'm not quite sure.

Q. Okay. Back in 2009; is that right?

A. That's correct.

Q. All right. And you went to go see Dr. Easterling and he took an x-ray and gave you some meds and sent you back to work?

A. Yes.

Q. Okay. Did you see any other doctors for your back at that time?

A. Not right at that time because I went back to school -- I was in extreme pain, I'm not going to lie to you; went back to work and my principal saw me and he sent me back home.

Q. Who was your principal?

A. Wymbs. I don't remember his first name, but it's W-Y-M-B-S. That was his name.

Q. All right. Who was the next doctor that you saw about your back?

A. Dr. Strong. He's over at the hospital at Regional.

Q. Okay. And what did Dr. Strong tell you?

A. He knew my problem was with my back, so he was giving me injections in the back. And I was doing -- I believe I was doing physical therapy also, but it was not helping.

Q. Did Dr. Strong recommend the physical therapy or did another doctor recommend that?

A. He did.

Q. Okay. In 2009, did you see any other doctors besides Dr. Easterling and Dr. Strong about your back?

A. Yes. Whatever was happening was not

improving because Dr. Strong wanted me to see another doctor. So I ended up seeing a -- what you call it, a spinalogist.

Q. Okay.

A. A specialist that deals with the spine, and his name is Senter, Robert Senter.

Q. Where is he?

A. He's at the St. Dominic Hospital.

Q. All right. And in 2009 what did Dr. Senter do? Did you see him in 2009?

A. Yes, I did see him. He did a whole set of x-rays and different tests on me. And he told me that it looks like I need surgery.

Q. Okay.

A. But he said since we're dealing with Workman's Comp he knows we have to go through all the procedures and exhaust stuff, so I went back to the regimen of injections, and he sent me right back to Dr. Strong, who is the pain management person, and I had more therapy.

Q. Okay. Did you see any other doctors in 2009 besides Dr. Strong, Dr. Easterling and Dr. Senter for your back?

A. Well, not in that time, but later on when everything was ruled out and it had come to the surgery part, I went to see a Dr. Ilercil for a second opinion before the Workman's Comp would agree to the surgery.

Q. Okay. You said Dr. Ilercil?

A. Ilercil, yes.

Q. Where was his office?

A. He is located in Jackson also.

Q. When did you go see him? And I don't need the exact date, just the time frame.

A. I saw him sometime in 2010, a couple of months or so before the surgery.

Q. Okay. How long were you off work in 2009/2010 school year?

A. I was off two weeks. Wait a minute. 2009/2010?

Q. Right.

A. Yes, two weeks.

Q. Okay. Did you receive any Worker's Comp?

A. Very briefly during that time.

Q. Okay. Do you know how much you received during that time, the 2009/2010 year, from Worker's Comp as far as the disability payments; not the medical benefits, but the disability payments?

A. Maybe between four and six hundred; not entirely positive about that.

Q. And that was for a period of about two weeks?

A. Yes.

Q. Okay. Did you have an attorney represent you on the Worker's Comp claim at that time, 2009/2010?

A. No.

Q. All right. Now from records that I saw from the District, you had requested some FMLA leave in July that was going to start going into effect when you had your surgery in August; is that right?

A. Can you repeat it?

Q. Okay. I saw a document from the school district that indicated that in July of 2010 you had notified them that you were going to need some FMLA leave that was going to start in August when you had your surgery. Is that how you remember that?

A. I remember letting them know that I was possibly going to have surgery because when I spoke to my doctor he told me that the surgery was coming up but he didn't tell me exactly when because when you're dealing with Worker's Comp they are the one that set everything, you know.

Q. Okay.

A. But in regards to the leave, I really didn't have any idea what that was all about. Being the type of person I am, I wanted everything to be in order.

Q. Right.

A. So that, you know, I was more concerned about the kids, me not being in the classroom, not in the position, you know, so I wanted everything in order before I was called out.

Q. My understanding is that you were going to have your surgery in August of 2010?

A. Correct, the 17th. And they told me about this two weeks before the surgery. I found out about the surgery two weeks before the surgery. Imagine that.

Q. Okay. It's my understanding that you had a contract for employment. Let's see, I think I have a copy. I hand you this document, and I'd like you to take a look at it. Now I understand this to be your unemployment contract with the school district from 2010/2011; is that correct?

A. Correct.

Q. All right. And then this contract was signed by you on June 1st, 2010?

A. Correct.

MR. SCHRADER: All right. I'd like to

have this contract attached as an exhibit to the deposition.

MS. ROSS: No objection.

MR. SCHRADER: That will be Exhibit 2, I believe.

(EXHIBIT NO. 2 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Ms. Gray, I'm going to ask that you take a look at this contract. And I want to make sure that I'm clear on what this contract lines out. You signed this on June 1st, 2010; is that correct?

A. Correct.

Q. And your school year for the 2010/2011 school year was supposed to begin on August 2nd of 2010?

A. Correct.

Q. And you attended work on August 2nd?

A. Yes, I was there on August 2nd.

Q. Okay. And then I think I heard you say that your surgery was going to be on August 17th; is that right?

A. Yes, that's correct.

Q. Okay. From August 2nd to August 17th, do you recall missing any days, being out for illness or personal leave or anything like that?

A. I had the presurgery things that you have to do before surgery, I had to take a day for that.

Q. Okay. Do you know on what day that was?

A. It was right before then. I think it was about the 13th or the 14th.

Q. Okay.

A. It was a couple of days prior to the surgery they have to do the preadmit or something I think it's called.

Q. Okay. And so do you remember your last day to attend work prior to your back surgery? Do you remember that?

A. It was the day before the surgery. It was up to the day before.

Q. And where did you have your surgery?

A. St. Dominic's Hospital.

Q. And did Dr. Senter do that surgery?

A. Yes, he did.

Q. I understand that Dr. Senter took you off work and -- I understand that Dr. Senter let you know that immediately following the surgery you couldn't come back to work, right? He took you off work for a while?

A. Yes.

Q. We received -- and I'm not sure who sent these to us. The district may have sent these to us, but I'd like for you to take a look at these documents and see if you recognize those as the slips you got from Dr. Senter explaining when you were supposed to return to work or when you were supposed to return to his office for evaluation?

A. Yes, uh-huh.

Q. Did you take these slips to the school district?

A. Yes. I gave them to Ms. Kavanaugh at the district office.

Q. Okay.

A. It's a matter of meeting with the doctor, and when I get one of those things I have it delivered to them.

Q. Okay. And you would turn these over to Ms. Kavanaugh?

A. Ms. Kavanaugh, Gail Kavanaugh.

Q. Gail. Okay. And what is her position at the district?

A. Well, actually, she does a series of things. I know she does the Workman's Comp thing and she does nutrition or something like that.

MR. SCHRADER: I'd like to have these doctor's slips attached as an exhibit to the deposition. You have no objection?

MS. ROSS: No objection.

MR. SCHRADER: That will be Exhibit 3.

(EXHIBIT NO. 3 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Before we move on to the doctor's slips, I have a few more questions about the contract here as Exhibit 2.

A. Okay.

Q. Now in your employment contract for the 2010/2011 school year, you were going to be paid a total of $41,515; is that correct?

A. That's correct.

Q. And your contract period was going to be for 187 days; is that correct?

A. Correct.

Q. And that was going to begin on August 2nd and end on May 24, 2011; is that correct?

A. Correct.

Q. And at the time Dr. Price was the -- when you signed this in June 2010, Dr. Price was the superintendent; is that correct?

A. Correct.

Q. Okay. I'd like to go over these work slips that we have. Now I understand that you had your surgery on August 17th. And according to these slips it looks like you went back to see Dr. Senter on September 3rd for a followup; is that correct?

A. Yes. I don't have what you have there, but --

Q. Let's see. It should be the same.

A. Oh, yes. Okay.

Q. On September 3rd it looked like you went back to Dr. Senter?

A. Yes.

Q. And he said that you'll be evaluated on October 15th, 2010, but you're supposed to be off work until that time?

A. Correct.

Q. Okay. After your surgery, you begin receiving Worker's Comp benefits; is that correct?

A. Yes, correct.

Q. Okay. Were you getting paid every week or every month or how were you getting paid by Worker's Comp?

A. Twice a month.

Q. Twice a month.

A. Uh-huh.

Q. And how much were you getting paid each pay period from Worker's Comp?

A. 800 and -- I think it was 828.

Q. 828 every two weeks?

A. Uh-huh, I believe so.

Q. Do you have any documents in your personal records that would reflect how much Worker's Comp was paying you?

A. Yes. I got it in the car.

Q. Okay. After your surgery and you were going to be out on Worker's Comp, did you hire a Worker's Comp attorney to help you with that claim?

A. Not right away.

Q. Okay. But at some point, did you?

A. Yes, toward the latter part.

Q. Okay. What attorney helped you with that?

A. First, I went to Sutherland here, and then she turned me over to someone called -- his name is -- I have all that information in the car. He's out of Columbus, Mississippi. Shane Tompkins. That's the name. That's the attorney out of Columbus.

Q. All right.

A. So, basically, they were my attorney, but they turned me over to him so they got whatever, you know, I don't know whatever kind of agreement that they had.

Q. Okay. And the checks you were getting from Worker's Comp for 828 every two weeks, were those coming directly to you or did they go directly to your attorney's office?

A. Directly to me.

Q. And so you would have received that between August 2010 until you went back to -- at least until you went to Dr. Senter in October of 2010 and he kept you off work again, correct?

A. Repeat that again.

Q. Okay. That's probably a bad question. When did you begin receiving your Worker's Comp benefits?

A. The end of August or early September of 2010.

Q. All right. And then on the first page of that Exhibit 3, Dr. Senter kept you off work until you were to return back on October 15, 2010; is that correct?

A. Correct.

Q. And then the next one I have shows that Dr. Senter saw you again on October 15, 2010, and kept you off work until January 3rd of 2011; is that correct?

A. Correct.

Q. Okay. Between October 17th, 2010, and January 3rd, 2011, did you attend any work at Vicksburg Warren School District?

A. No.

Q. The next slip we have from Dr. Senter's office shows that you went to see him January 3rd, 2011, and he kept you off work until he saw you again on March 7, 2011; is that correct?

A. Correct.

Q. And between January 3rd, 2011, and March 7th, 2011, did you attend any work at the Vicksburg Warren School District?

A. No.

Q. The next document I have shows that you went to see Dr. Senter on March 7th, 2011, and he indicated that you would be off work until you were re-evaluated on June 6th, 2011; is that correct?

A. Correct.

Q. And did you do any work between March 7th 2011, and June 6th, 2011?

A. No.

Q. And the last one that I have shows that you went to see Dr. Senter on June 6th, 2011, and he indicated that you were ready to go back to work, but that you could lift no more than 40 pounds; is that correct?

A. Correct.

Q. Okay. And did Dr. Senter give you this while you were at his office?

A. Yes.

Q. All right. So, as I understand it, your last date for the 2010/2011 school year was the day before your surgery?

A. Correct.

Q. That would have been August 16th?

A. Correct.

Q. All right. Now my wife is a fourth grade teacher at Beachwood, so I kind of have an understanding of how the teachers get paid. But I want you to make sure that I'm clear about that. This is the contract that we discussed earlier. Now the way that I understand it is y'all are paid for 187 days of work but, so that you don't have months that you don't have income, they stretch that over a 12-month period; is that correct?

A. Correct.

Q. Okay. So the way that I understand it is the school district would take your $41,515, divide that by 12, and that would be your gross income per month?

A. Correct.

Q. Okay. Now taking your salary of $41,515 and dividing that by 12, that would be a gross salary of $3,459.58. Is that how much your gross paid is?

A. The gross, yes.

Q. Okay. And that was before tax-holdings or insurance and things of that nature?

A. Yes.

Q. Okay. Now when you had your surgery in August 2010, did you receive a paycheck at the end of August from the school district?

A. Yes.

Q. Okay. How much was that?

A. I believe it was around 8 something, 800 and something for the two weeks that I worked.

Q. Okay. Now 800 and something, would that have been your gross salary less any taxes and withholdings only for the days that you had worked?

A. Correct.

Q. According to the human resource department up at the school district, they indicated that you had worked a total of nine days in August. Does that sound right to you?

A. Yes.

Q. Okay. Did you receive a paycheck from the school district at the end of September?

A. No.

Q. Okay. When you started the school year in 2010/2011, are you aware of how many days of sick leave you had available to you?

A. No. I think it was about maybe 12 to 15. I'm guessing. I think it was about 17 actually.

Q. Okay.

A. I believe it was 17.

Q. Would that 17 have included your personal leave as well, sick and personal leave?

A. Yes.

Q. While you were out after your back surgery, did you have occasion to speak with anybody up at the central office about how many sick days or personal days you had available to you?

A. No.

Q. The way that I understand your employment contract is the school district -- that you promised the school district that you would work for 187 days and they would promise to pay you $41,515.00. Is that how you understand that arrangement to be with the school district?

A. Yes.

Q. Okay. And that they would pay you over the course of the entire year instead of just the nine months that you worked. Is that how you understand it?

A. Correct.

Q. Now according to your contract, the contract was supposed to end on May 24, 2011. And you weren't released back to work until after that; is that correct, June 6th?

A. Yes.

Q. Okay. Your contract had been renewed every year since 2004?

A. Correct.

Q. Now, typically, it's my understanding that in March or April letters go out to the teachers -- letters of intent for the teachers to sign to see if they intended to come back the following year?

A. Correct.

Q. Okay. Did you ever receive a letter from them?

A. Yes.

Q. Okay. In the years past when you have signed the letter of intent or gotten the letter of intent, how would they have delivered those to you? Did they mail them to you or did they bring them to you at the school?

A. Well, originally, they would bring them to you at the school if you were at the school. Since I was always at the school I have no idea how they, you know, dealt with people who were not there when the letters came.

Q. Okay. Do you recall exactly when these letters would typically come out, which month it is?

A. Those type of letters come out like right after Christmas, around Christmas, the first month of the new year which would be about January.

Q. And as I understood you to say that since you were always at the school you just got your letter at school when they would bring them by to the school that you were working at; is that it?

A. I would receive this from the principal or they would say come to the office and the secretary would have the letters of intent.

Q. Okay. And had you ever heard of the school district mailing out letters of intent to teachers that were not at school the day that the letters came to the school?

A. I never heard of that. I never had to deal with that situation.

Q. Now I understand that you were out on

your sick leave during this time that you typically would have received the letter of intent, but since you weren't at school you didn't get one.

MS. ROSS: I'm going to object to form. She was out on Worker's Comp. I don't know that she was out on sick leave.

Q. (By Mr. Schrader) Okay. While you were out attending to your back injury, you weren't able to get your letter of intent while at school; is that right?

A. No.

Q. Okay. Did you ever call to the school and request a letter of intent for you to sign?

A. No.

Q. Okay. Did you ever at this point prior to May 2011, did you ever provide any written notification to the school district that you intended to return for the following school year?

A. No.

Q. Now at the end of the school year, you were still out on your -- the doctor still had you off work; is that correct?

A. Yes.

Q. And were you still receiving Worker's Comp at the end of the school year?

A. When you say at the end of the school year, you mean --

Q. The end of May?

A. Yes.

Q. You were still getting your Worker's Comp?

A. Yes.

Q. Okay. Did you receive Worker's Comp benefits up through June 6th, 2011?

A. Correct.

Q. Okay. Do you know the total amount of Worker's Comp that you received between August 17th, 2010, and June 6th 2011?

A. No.

Q. Okay. Do you have any documents that would indicate that?

A. Yes.

MR. SCHRADER: Would you provide those documents to your attorney and let her take a look at them before -- we're going to request those documents through a formal request, but if you would get those ready and provide those to your attorney I would appreciate it so that we would have an idea of exactly how much Worker's Comp you received.

Q. (By Mr. Schrader) Now I understand that you were out on your FMLA leave at the same time of receiving your Worker's Comp benefits; is that correct?

A. Apparently, yes.

Q. Okay. Are you aware when your FMLA leave expired?

A. No.

Q. Did anybody at the school district ever provide you any notification when your FMLA leave was to expire?

A. No.

Q. Did you ever have occasion to go to central office to inquire as to whether or not you would have a job for the fall of the year?

A. Yes.

Q. Okay. When did you do that?

A. I made a phone call. Actually, while I was out on medical leave, I would keep in contact with the office with not just the stuff from the doctor and what have you, but I was reported to -- that I had to see a Ms. Johnson, I don't know her first name, and I think that's her secretary's came in and said that she was going to be dealing with me in reference to my situation.

Q. Okay.

A. And I called and I made an appointment to see her, and I went in to see her and she told me that since I was already on medical leave, she didn't have anything definite to speak with me about. But she did say that when I get my medical release from the doctor I must make an appointment to come in and see her and she would speak with me then. But as far as she can see in my file that all I needed was a placement to go back into the classroom and she will discuss that with me when I get my release from the doctor.

Q. Okay. Was all that discussed during one telephone call?

A. No. That was in person. I spoke to her and I went in to see her after I made an appointment to see her, and that was discussed when I made the appointment to see her. And that was like two weeks and a half prior to the doctor's release, which was the 6th of June.

Q. Okay. The 6th of June was when you were released from the doctor?

A. Right, but I spoke with her about two and a half weeks prior to that date.

Q. Now while you were out between

August 17th and June 6th, did you talk to anyone else other than Ms. Johnson about your intent to come back to teach, anyone else at the school district?

A. I kept in contact with my principal from August 9th to December of 2009 because I was told that since he was my administrator, my supervisor, immediate supervisor, I was to keep in contact with the school and him to let them, you know, be aware of what was happening to me in my case. So, yes, I did. It was Dr. Wiggins.

Q. Dr. Wiggins?

A. Yes.

Q. Dr. Wiggins, was he the principal of --

A. WCI.

Q. WCI?

A. Yes.

Q. Okay. And your contact with Dr. Wiggins would have been between August and December 2009?

A. Right, right.

Q. Okay. After December 2009 and your meeting with Ms. Johnson, did you speak with anybody else up at the school district about your intent to return to work?

A. Well, after that I also spoke between, I left messages with his secretary. Sometimes I didn't get Dr. Wiggins. But between that time, no, because I personally felt that they knew I was interested. I was bringing in my releases and everything. I mean, I showed an interest actually.

Q. And how many meetings did you -- before June 6th, how many meetings did you have with Ms. Johnson?

A. One. I had one.

Q. And she informed you that once you were released back to work that you needed to bring that back to the school district and they would see about finding a place for you with the school district?

A. Yes, uh-huh.

Q. And then you went to see Dr. Senter on June 6th?

A. Uh-huh, yes.

Q. He released you back to work; is that right?

A. Correct.

Q. Okay. Now after you were released from work, did you have occasion to talk to anybody at the school district about teaching the following school year?

A. Okay. Yes and no. I can explain.

Q. Okay. That would be great.

A. After I got the release from Dr. Senter, I tried to get in contact with Ms. Johnson just like she stated. Now you can't just go and see her. You have to make an appointment to see her. I tried to make an appointment with her secretary and her secretary said she can't make appointments for her. She has to make them herself.

Q. Okay. Who is Ms. Johnson's secretary?

A. I have no idea. I don't know her. I heard her voice on the phone.

Q. Okay.

A. I called and spoke with her like a week trying to make an appointment but never did speak to her and she never returned my call. One day out of the blue, Charlotte Grant -- she works in the personnel office and she works also with Ms. Kavanaugh, informed me on the phone that if I wanted to seek a teaching position in the district, I need to reapply in order to be considered for a teaching position.

Q. Okay. Do you remember when you spoke with Ms. Grant?

A. Not the exact date, but I know it was like a week and a half after the date of the 6th of June.

Q. Okay. Did she tell you anything that you would need to submit for consideration in being rehired?

A. She said to reapply.

Q. Reapply.

A. So I took that as resume, everything, you know, when you are reapplying for a job.

Q. Okay. Did Ms. Grant ask you for a copy of the return to work slip?

A. No, she did not.

Q. Okay. And had you provided the school district with a copy of that prior to hearing from Ms. Grant?

A. Not at that time.

Q. Okay. What did you do after Ms. Grant informed you that you would need to reapply for employment?

A. Okay. I went and I got my resume together and all that I needed to reapply. I took the package to the district office.

Q. Okay.

A. And I took a copy of each to several schools to their offices for the principals because sometimes principals have interviews and choose who they want to come. That's what I did. I also at that time I did turn in the release form to Gail Kavanaugh.

Q. Okay. So you would have given the release to Gail Kavanaugh?

A. Yes.

Q. Okay. Do you remember the date that you gave that release to Ms. Kavanaugh?

A. No, I'm sorry.

Q. Do you remember the month?

A. It was June. It was just after I got that phone call, actually. I was trying to get everything back in order. So I would say about the third week of June, but it took me a week to get in contact with them to tell me this stuff and a week after that I got everything in order.

Q. Okay. So you would have given that slip, Dr. Senter's return to work slip, to Ms. Kavanaugh?

A. Yes.

Q. Did you give her a copy or an original?

A. I believe I gave her the original. I kept the copy.

Q. Okay. Did you make the copy at home or had them make it up at the central office? Where did you get your copy?

A. I made my copy at my house.

Q. So as you remember it, you provided the return to work slip around the third week of June to Ms. Kavanaugh?

A. Correct. Can I interject something?

Q. Sure.

A. My intention was to give the return to work slip to Ms. Johnson that I was supposed to have a meeting that I never got.

Q. Okay.

A. So when I got this call saying about reapplying, I didn't see the sense at that time really because what was the point. But then I was informed by my attorney that I should have gotten it in.

MS. ROSS: Excuse me. Don't get into what we talked about.

THE DEPONENT: Okay.

Q. (By Mr. Schrader) Did you receive any other telephone calls about your reemployment after June 6th?

A. You mean after I give the --

Q. Well, let me go back over the telephone calls that I was aware of. Prior to June 6th, you had spoken with Ms. Johnson before you were released to come back to work, right?

A. Uh-huh, correct.

Q. Okay. And after you were released you made efforts to schedule an appointment with Ms. Johnson to discuss with her your coming back?

A. Correct.

Q. And you weren't able to get in touch with her? She wouldn't return your calls.

A. Correct, I left messages.

Q. And then a week or two after that you received a call from Charlotte Grant letting you know that if you wanted a teaching spot that you needed to reapply?

A. Correct.

Q. And it's my understanding that after that telephone call that you got your resume and other information together. Did you submit that to the central office or just to the principals?

A. To the central office, the personnel and to the principal.

Q. Okay. Did you meet with any principals for interviews?

A. Nobody contacted me. Nobody.

Q. Okay. Other than Mrs. Grant and Ms. Kavanaugh, did you speak with anybody else over at the central office about your desire to come back to work for the following school year?

A. Well, Ms. Johnson was aware I wanted to come back. Apparently, I don't know -- she didn't want to discuss it since I was still on medical leave. I don't know what was the reason. But she told me when I get the release to come back, and that from what she sees in my file all I need is a placement to be placed in the school and we would discuss that when I get my release. That was my understanding.

Q. Now while you were out on Worker's Comp or when you were missing work due to your back injury, did the school district maintain your health insurance?

A. Yes, but there was a portion that I had that was extra, and every month I would send a check to Ms. Adams. She was over the insurance, and I would send her a check for my portion every month.

Q. Okay. Now the portion that you had to pay, was that for spouse or for children?

A. No, that was dental, eyes and all that.

Q. Okay. That was your portion that you kept up with and then the school district was continuing to pay the premium to keep you covered under their plan?

A. Correct.

Q. How did you provide these -- let's go back through them one by one. The last one has the return to work slip on June 6th, 2011. And as I understand it, you gave this to Ms. Kavanaugh at the school district?

A. Uh-huh.

Q. On the other ones throughout the year from September 3rd, October 15th, January 3rd, and March 7th, how did you send these?

A. Those were hand-delivered.

Q. Hand-delivered to central office or to your principal?

A. Hand-delivered to the central office.

Q. Okay. All of these were hand-delivered?

A. Yes.

Q. Okay. And were you also hand-delivering your medical record information, the information that Dr. Senter signed saying that this was a certified emergency. Did you hand-deliver that to central office or did he send that in?

A. I have no record of that so I believe he probably sent that in.

Q. Okay. What other documents would you provide to the school district while you were out attending to your back injury, what other documents besides these return to work slips would you have brought up to central office?

A. That's it.

Q. Just these return to work slips, okay.

A. That's all that was given me, actually.

Q. And did I understand you correctly to say that you never had occasion to provide any written notification to the school district that you intended to return. You didn't write them a letter saying I would like to return or anything like that?

A. No.

Q. Okay. Just your calls you would make?

A. Sometimes I would call and speak on the phone to Ms. Kavanaugh or Ms. Grant, you know.

Q. Okay. Do you know if you have ever been paid for your sick leave or your personal leave that you had built up with the school?

A. I'm unaware.

Q. Okay. The information that I got from central office indicates that in August and September you were paid a total of -- this is your gross income. This is before taxes and all that, gross payments made by the school district were $4,699.80.

A. For which months?

Q. For August and September?

A. Of 20 --

Q. 2010. Does that sound right to you?

A. No, it does not.

Q. Okay.

A. They were taking stuff and putting it in your direct deposit.

Q. Okay.

A. I wasn't getting any kind of slips or any forms. I think you normally suppose to get like a form that says something when something is deposited. I didn't get anything from them. I was down in bed for months, so, no. And I don't recall that kind of money.

Q. Okay. Do you have any idea how much money was -- well, let me go back. When my wife gets paid she gets paid direct deposit. Is that how you would receive your paychecks?

A. Yes.

Q. Okay. And even in August of 2010, your salary was direct deposited into your checking account?

A. Correct. At that time they would give us a slip. That was with Dr. Price.

Q. Okay. And was that slip like in your

mailbox at school?

A. Or they would mail it to you at your house.

Q. Okay. Do you have any record that show how much money was deposited into your checking account. I'm presuming that it was your checking account. Did your paychecks go into your checking account or savings account or what kind?

A. Checking account.

Q. Checking account. Do you have any documentation showing how much you received from the Vicksburg Warren School District between August 2nd, 2010, and May 24, 2011?

MS. ROSS: Her account would show it.

A. Well, it would show it. I might have to go to the bank and get that. Because I think after a certain amount of time when you go online -- because I tried to do that, but it says after a certain amount of time you can't.

Q. (By Mr. Schrader) What bank do you use?

A. Trustmark.

Q. And you still use that same account that was open during that time?

A. Correct, uh-huh.

Q. So as we sit here today, you don't know

if you've ever been paid for your sick leave or your personal leave?

A. I'm not sure.

Q. Okay.

MR. SCHRADER: And I forgot to tell you when we first started, if you need a break for anything, please let me know and we'll be able to take a break if you need it.

Q. (By Mr. Schrader) The next document I would like you to take a look at is the complaint that was filed in this lawsuit. If you'll take a look at that for a moment, I've got some questions about that. Do you recognize this as the complaint that initiated your lawsuit against the school district?

A. Yes.

Q. Okay. Prior to it being filed, did you have the occasion to review it, to understand what it was saying and what it was asking for?

A. Yes.

Q. All right. I see up in the top right-hand corner that it indicates that it was filed on July 18th, 2011?

A. Correct.

Q. All right. And could you just give me an idea of what prompted you to file the lawsuit against the school district?

A. Okay. What prompted me was the run-around I was receiving after I got my medical release from the doctor. Because I have never been in a situation like this before. I didn't know what the logistics was or what the protocol was, but I thought that I did everything in my -- whatever I thought was correct. I gave my medical releases, whatever the doctor gave me I was presenting, whatever was happening with Worker's Comp or whatever was happening with my back was sent to Worker's Comp, which was with the district. I gave her copies of everything what was going on. By me keeping in contact with the district with what I was doing, I assumed that showed interest to continue working as an employee. So after dealing with Ms. Johnson and not dealing with her or her not dealing with me to me the way I felt I should have been dealt with, given this phone call if I wanted to be considered as an employee I had to reapply, I had no other choice but to seek action of an attorney.

Q. Okay. Do you remember when you submitted your resume and other information for consideration for reemployment?

A. Yes.

Q. When was that?

A. Right after I spoke with Ms. Grant on the phone and she told me that.

Q. Would that have been in June or July?

A. That was in June, the same month. I did everything really back to back. At that time I was waiting to hear back from Ms. Johnson, actually. I keep calling leaving messages, calling leaving messages. I spoke with her secretary, but her secretary tells me she cannot make her appointments. And then I finally got this call from Ms. Grant telling me this stuff, so I just said, okay, you know. I did what I felt I had to do.

Q. What other information would you have submitted to the district other than your resume when you went up to the district to provide them with reemployment, the other information?

A. I think I may have had a cover sheet, I think. That's what I gave the schools also.

Q. Okay. Did you follow up with anybody in July about potential employment with the school district?

A. The Vicksburg School District?

Q. Yes, Vicksburg School District.

A. Well, after giving my resume and my cover letter -- well, not to the district, but giving my stuff to different schools. I called several schools and I spoke to secretaries.

Q. Several schools in the Vicksburg Warren School District?

A. Yes. Several schools. I spoke to Warren Central Jr. High, Vicksburg Jr. High, and I received no -- anything. No phone call, letter, nothing. Nothing. I received no word whatever by the mail or telephone from the central office, because they're in positions also where they can send you to a school without having to go to the principal. I heard nothing. Absolutely nothing.

Q. Okay. What grades are you certified to teach?

A. I am certified to teach grades four through eight.

Q. Okay. And while you were out with your injury, did you keep up with your CEU's to maintain your license? How often do you get re-licensed?

A. Every five years.

Q. How often do you renew your license?

A. It's due in 2013, so I still have some time to get what I need to get together.

Q. Would you take a look at paragraph 9 of your complaint there, and I would like to ask some questions about this paragraph. It indicates -- I'm going to read this and I'd like you to tell me if I'm reading this right.

(Reading) In June 2011 after Gumbs-Gray's physician released her to return to work, she contacted school officials and was told that she should submit a resume and letter of intent in order to be considered for employment. The school official that you were talking about there, would that be Ms. Grant?

A. Correct.

Q. Okay. And then the next sentence says, (reading) School officials failed to pay Gumbs-Gray salary for the months remaining on her contract after she was released from the doctor's care. Did I read that correctly?

A. Correct.

Q. Okay. How much do you contend that the school district should have paid you that they hadn't already paid you before?

A. Okay. The 3,000 and change that you told me about monthly without tax taken out times two or less a little for the one week. So that amount times two less one week.

Q. Okay. So that would be the month of June and July of 2011?

A. Correct.

Q. Less one week. Okay. Now we talked earlier about you had received a paycheck at the end of August; is that right?

A. Yes.

Q. Okay. And during August you worked about nine days?

A. About.

Q. Okay. And that you didn't work any other days throughout the year. Okay. Now other than those nine days, did you do any work to earn that salary that you claim that you're owed?

A. I didn't work.

Q. Did not work. Okay. Do you contend that you worked days during the 2010/2011 school year that you were not paid for?

A. I don't quite understand. Can you rephrase that?

Q. Sure. Did you work any days in 2010/2011 that you were not paid for?

A. No.

Q. So can you explain why the school

district would need to pay you for June and July when you didn't provide any teaching days to earn that salary?

A. I was under contract. I was hurt on the job working for them, no fault of my being injured on the job, had no intention of being out all that time, but due to the type of surgery that I had, I had no other choice. I would have been on my job doing my job if that did not occur.

Q. While you were out with your back injury, you received Worker's Comp payments, correct?

A. Correct.

Q. And the amount of that was $828 every two weeks?

A. Correct.

Q. Okay. At the end of every month -- let's go back to the prior school year, 2009/2010. You would get paid once a month, correct?

A. Correct.

Q. And that would be at the end the month?

A. Correct.

Q. The last business day of the month?

A. Correct.

Q. And that was direct deposited into your account?

A. Correct.

Q. What was your typical paycheck every month in 2009/2010?

A. You mean with taxes taken out?

Q. Yes.

A. It would be about $2,300.

Q. $2,300?

A. Give or take, about that.

Q. And back in the year of 2010, the school year of 2010/2011, your contract called for you to work 187 days and in return they would pay you $41,515; is that correct?

A. Correct.

Q. And you worked nine of those 187 days; is that right?

A. Right.

Q. So you missed 178 days on your contract; is that right?

A. Correct.

Q. And as we sit here today you feel that the school district should pay you for days that you didn't work; is that right?

A. Well, when you put it in those words, but since I was injured on the job, I do, yes. I do.

Q. And you received payments while you were

off through Worker's Comp, right?

A. Through Worker's Comp, yes.

Q. So even though you weren't working those 178 days, you were getting paid?

A. Paid, but not my salary.

Q. Okay. How much less were you being paid than what you would have earned if you had worked those 178 days?

A. Okay. Say that again.

Q. How much less were you being paid than you would have made if you had worked the 178 days?

A. Okay. If you multiply 828 times two and you subtract that from 3,000 and change, whatever difference that would be. I have no idea what that would be.

Q. So the 3,000 you're talking about is the $3,459.58; is that right?

A. Correct.

Q. Okay. And that would be your monthly salary before taxes?

A. Correct.

Q. Okay. They will withhold your taxes, and they would withhold whatever withholdings that they needed to give you your net pay?

A. Correct.

Q. And as we sit here today you can't recall the exact amount of your net pay that would have been paid?

A. You mean from the district?

Q. Yes.

A. I thought I had that with me, but I do not.

Q. Okay.

A. Not that what I have is up to date, but that's the last thing.

Q. Okay. What is your current salary?

A. My current salary?

Q. Yes. Is it $42,010?

A. Uh-huh.

Q. So as we sit here today one of the elements that you're asking the court to award you is two months of your gross salary less the first week in June; is that right?

A. Yes.

Q. Do you have a total number for the amount of wages or salary that you're asking for?

A. Whatever it would have been for those two months less the one week.

Q. And you do agree that out of the 187 days that you were supposed to work, you only worked 178 of those days; is that correct?

A. Repeat?

Q. Out of the 187 days that you had agreed to work, you only worked 178 of those days; is that correct?

A. No.

Q. Okay. How many days of the 187 days under your contract did you work in that school year?

A. Nine.

Q. Okay. Nine?

A. Uh-huh.

Q. So, if I subtract nine days from 187, that leaves 178 days that you didn't work during that year, correct?

A. Correct.

Q. Okay. Now have you ever gone a period of time where you had taken off more days than you were allotted for your sick leave or personal leave in the seven years that you had been employed by the school district? Did you ever miss more days than you had paid time off?

A. No. This was the first time.

Q. First of all, how did you learn that the district had not planned on or had not made arrangements for you to have a contract for the

2011/2012 school year? How did you learn that?

A. After receiving the phone call from Ms. Grant.

Q. And at that time did they tell you that they were not going to hire you?

A. Well, the wording that she said led me to believe that I was not going to be hired. Because if I had to resubmit an application and I been working with you for years, that tells me I don't have a job.

Q. Did you receive anything else that would indicate that they planned not to hire you back other than the telephone call?

A. The telephone call and something in the mail from the insurance telling me that effective July 31st my insurance was going to be terminated.

MR. SCHRADER: Before we go any further, can I get the complaint attached as an exhibit to your deposition. I believe that's going to be Exhibit No. 4.

MS. ROSS: No objection.

(EXHIBIT NO. 4 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) Is this what you received in the mail that you were talking about. If you will take a minute to look through that.

A. There was another document that I

received from the insurance company that's not here that states that my insurance was going to be terminated. I received this, but there was something else that I received from the insurance company.

Q. Okay. The other document that you're talking about didn't come from the school district. It came from an insurance company?

A. That's correct.

Q. All right. And what insurance company?

A. Blue Cross/Blue Shield.

Q. Okay. When did you receive the document from Blue Cross/Blue Shield?

A. Sometime during the month of July.

Q. Do you remember what part of July that you received that?

A. It probably was June. I have copies, but I didn't bring it with me.

Q. Okay.

MS. ROSS: I thought we produced it in the prediscovery disclosure. But if not, we will give you a copy of it.

Q. (By Mr. Schrader) Did you receive any other written notification that you were not going to be reemployed for the 2011/2012 school year?

A. No.

Q. Okay. Now, as I understand it, the only written documentation that you received notifying you that you were not going to be reemployed was the document from your insurance company and the letter that was sent -- let me just scratch that question.

Now Ms. Ross indicated that in the prediscovery disclosures the document from the insurance company was supposed to be attached. And what I have listed here on your prediscovery disclosures is the State and School Employees' Health Insurance Plan Continuation Coverage Election Notice.

MS. ROSS: She didn't prepare that document, so I would object to that.

Q. (By Mr. Schrader) Right. So I'm going to ask if the State and School Employees' Health Insurance Plan Continuation Election Notice, is this document here the one that you would have received from the insurance company?

A. I received that from Ms. Adams. I believe she sent that to me. I don't believe I got it from the insurance company. It was another document from them telling me, yes, I been under their plan since 2004, and effective July 31st, 2011, that I've been terminated. I got this one, and I received the other one I'm telling you.

Q. Another one. Okay. All right. And what confuses me at this point is that in the initial disclosures, the document listed is the State and School Employees' Health Insurance Plan Continuation Coverage Election Notice.

MS. ROSS: And we told you that the document that she's talking about is two different documents, and we will provide the document. The one-page document that she received that let her know that she had been terminated and giving her notice of her COBRA rights. And you don't get a notice of COBRA rights unless you've been terminated.

Q. (By Mr. Schrader) And that's a letter different than the one that the school sent you?

MS. ROSS: That's right.

MR. SCHRADER: Okay. I got you.

A. And we're talking about that one that the school sent me? That's what you're saying.

Q. (By Mr. Schrader) Right.

A. Okay.

MR. SCHRADER: Let's get this one marked as Exhibit 5 so that I don't confuse myself. Do you have any objections to that?

MS. ROSS: No objections.

MR. SCHRADER: Okay. We'll get that marked. I think that will be Exhibit No. 5.

(EXHIBIT NO. 5 MARKED FOR THE RECORD)

Q. (By Mr. Schrader) I'm going to hand you what's been marked as Exhibit No. 5. And if you will take a look at this, and I want to make sure my understanding is correct. This package of documents is what you received from the school district?

A. Yes.

Q. You received other information from Blue Cross/Blue Shield?

A. Correct.

Q. Okay. And it was your understanding or your recollection that the documents you received from Blue Cross/Blue Shield were dated in June?

A. Correct.

Q. Now upon your learning that you would need to reapply for employment, did you have any occasion to contact the Vicksburg Warren School District school board about your concerns you were not going to be reemployed?

A. No.

Q. Is there a reason why you didn't contact the school board?

A. I have never been in a situation like this before. I had no idea what the protocol was.

Q. Did anyone ever suggest to you that you needed to speak with the school board about getting a contract for the next school year?

A. No.

Q. Okay. None of your teacher friends or anybody at the school?

A. No.

Q. In the complaint that was filed starting on paragraph 8 of the complaint on page 3. And I'd like you to follow along with me if you will. It says, (Reading) In Mississippi certified teachers who have been employed by a school district for at least two years, are entitled to notice and a hearing before they can be suspended or terminated and/or their contract can be non-renewal. Did you ever receive any other written notice other than the COBRA information?

A. No.

MS. ROSS: Well, let him finish his question before you answer.

Q. (By Mr. Schrader) All right. As we sit here today I understand that you received a packet from the school district letting you know that if you wanted to continue your health insurance you would need to pay the COBRA premiums. You also received a letter from Blue Cross/Blue Shield providing you information about what to do to continue your coverage; is that right?

A. Correct.

Q. Okay. Other than those two documents, did you receive any other documentation indicating that you were not going to be renewed for the 2011/2012 school year?

A. No.

Q. Okay. Did anybody at the school district ever tell you that you would not be rehired for the 2011/2012 school year?

A. No.

Q. Okay. When you came to believe that you were not going to be rehired, did you do anything to request a hearing as to whether or not you were going to be renewed?

A. No.

MS. ROSS: Objection. I mean, she's not required to request a hearing until she's put on notice that she's being non-renewed or suspended or terminated.

Q. (By Mr. Schrader) Okay. You received two letters, one from the school district and one from your insurance company. And after reading those two letters it was your understanding that you were not going to be renewed, your employment was not going to continue to the 2011/2012 school year; is that correct?

A. Yes.

Q. At that point was it your belief that you were not going to be rehired?

A. That along with the phone call I received from Ms. Grant, yes.

Q. Okay. And after that did you request any hearing to reconsider any decision that was made not to rehire you?

A. No.

Q. Okay. Do you have any knowledge that any of your attorneys ever contacted the attorney for the school board to discuss whether or not you would be rehired for the 2011/2012 school year?

MS. ROSS: Objection to what her attorney did. That's privileged information and also the law does not require her to do any of these things. The burden is on the school district, so she's not going to answer any questions about what I did.

Q. (By Mr. Schrader) Other than what your attorney has told you, do you have any independent knowledge as to whether or not your attorney ever spoke with the attorney for the school board to discuss whether or not you're going to be rehired?

MS. ROSS: That's not what the law requires, and I'm going to direct her not to answer that.

MR. SCHRADER: Under What privilege?

MS. ROSS: I think that's irrelevant. It's irrelevant. Show me any statute that says that the attorney is supposed to do those things, any basis for that.

MS. SCHRADER: I'm not saying that they're required to. I'm just asking if that happened.

MS. ROSS: Well, I can tell you no, and that she's not required to do it.

MR. SCHRADER: Okay.

Q. (By Mr. Schrader) In the complaint on page 4, paragraph 12 it reads: Plaintiff contends that she had a clearly established right to a due process hearing prior to being removed from her teaching position. Did I read that right?

A. Yes.

Q. Okay. Did you do anything to request a

due process hearing?

A. No.

Q. All right. What has the school district done to deny you the right to a due process hearing during which would be discussed your employment for 2011/2012?

MS. ROSS: Objection. That calls for a legal conclusion, and I direct her not to answer that. I mean, you know what they did. They didn't give her notice that she was being removed. That's what triggers her right to request a hearing. But it calls for a legal conclusion. That's attorney's writing. That's not her.

Q. (By Mr. Schrader) Are you aware of anything that the school district did to deny you the opportunity to have a due process hearing?

A. I don't understand.

MS. ROSS: Objection. It's calling for a legal conclusion, and she just told you she doesn't understand the question. You know what the statute says and I know what the statute says is supposed to happen before she's relieved of her duty and told to reapply.

Q. (By Mr. Schrader) All right. In response to that, the statute indicates that if the school district or superintendent desires not to renew employment of a teacher that they give that teacher written notice and they give that teacher an opportunity for a due process hearing, if that doesn't happen, then the school district, the school board shall provide a contract for employment for the following year. Are you following me so far?

A. Yes.

Q. Okay. You did receive an employment contract for the 2011/2012 school year; is that correct?

A. Correct.

Q. All right. When did you get that?

A. August 4th of 2011.

Q. I'm going to hand you this document and I would like you to tell me if that's that contract that you received for the 2011/2012 school year?

A. It is.

Q. All right. Now you signed this contract on August 4th?

A. Yes.

Q. And you have been teaching for this school year?

A. Correct.

Q. Okay. Now in your complaint in your lawsuit you're asking that the court enjoin the defendants from violating your Constitutional and protected rights and also award the contract for the 2011/2012 school year; is that right?

A. Correct.

Q. Okay. And now you have your contract for the 2011/2012 school year?

A. Correct.

Q. Okay. So you're still asking the court for that contract?

MS. ROSS: She asked them for it when it was filed on July 18th because she hadn't received it. So, of course, that would be done now.

Q. (By Mr. Schrader) Okay. So you're no longer asking the court for that one; is that right?

A. Correct.

MS. ROSS: It's already happened.

Q. (By Mr. Schrader) And you're also asking the court for your attorney's fees, cost and expenses of litigation?

A. Yes.

Q. Okay. How much have you paid your attorney to represent you in this case? Okay. If you're going to be asking for it at trial.

MS. ROSS: $7,500 retainer.

Q. (By Mr. Schrader) All right. Is there anything other than the $7,500 that you have paid?

MS. ROSS: The filing of the complaint, serving the complaint.

Q. (By Mr. Schrader) Okay. What we're here today for is for us to know exactly what it is that you're asking for from the court.

A. Okay.

Q. So $7,500 retainer fee. Is that refundable or nonrefundable?

MS. ROSS: I'm working. I'm still here so, I don't think so.

Q. (By Mr. Schrader) Okay. Has the $7,500 been entirely earned by your attorney at this point?

A. Yes.

Q. Okay. Do you expect to pay your attorney for that $7,500?

MS. ROSS: It's ongoing.

A. Yes, because it's ongoing.

Q. (By Mr. Schrader) Okay. Are there any outstanding bills you've received from your attorney that exceeded the $7,500 that you've already paid?

A. Not at this time.

Q. Okay. And the cost of filing this lawsuit. Do you know how much that is?

MS. ROSS: 350. I think 350, 375.

Q. (By Mr. Schrader) Okay. Are there any other attorney's fees, cost and expenses, other than the $7,500 retainer fee that you paid and the $350 filing fee?

A. No.

Q. So at this point that's all of your attorney's fees, cost and expenses for litigation; is that correct?

MS. ROSS: And the deposition today, cost of the deposition.

Q. (By Mr. Schrader) Okay. Deposition. So is that outside the $7,500 that you've already -- is the deposition cost outside of the $7,500 you've already paid?

A. Yes.

Q. And the attorney's fees that we can expect to hear about between now and trial, would those be on an hourly rate or fixed rate?

MS. ROSS: However the judge awards them. We will submit an hourly bill.

Q. (By Mr. Schrader) Okay. What's the hourly rate of your attorney, Ms. Gray?

MS. ROSS: That's going to be determined by the court. The court is going to decide what eventually it would be.

MR. SCHRADER: I expect that at trial, the plaintiff, Ms. Gray, will submit itemized billings to the court for consideration for payment?

MS. ROSS: No, no, not at trial. That doesn't happen at trial.

Q. (By Mr. Schrader) At the time that you request that your attorney's fees be paid, something will be submitted to the court explaining what charges you have incurred for attorney's fees. Is there a set hourly rate that you have agreed to pay your attorney to represent you in this matter?

MS. ROSS: She doesn't know the answer to that question. There is not a set hourly rate. We generally submit that to the court and ask the court to determine.

MR. SCHRADER: Submit what to the court?

MS. ROSS: We ask the court to determine the hourly rate in accordance with the rules of submitting two affidavits from two lawyers who's done work in this area who will say what my hourly rate should be.

Q. (By Mr. Schrader) Okay. So as we sit here today, Ms. Gray, your attorney has not presented you with an hourly rate that your attorney will expect to be paid for these proceedings?

A. No.

Q. Okay. Other than the contract for the 2011/2012 school year and the attorney's fees that you're asking for, is there anything else that you're going to ask the court for?

A. Okay. I'm not sure if I can ask this question or not, but after dealing with the way I was handled with Ms. Johnson and after running around after I got word of this termination because I applied to other places for jobs. I went on -- interviewed for jobs trying to find something else, looking for a job. I don't know if any compensation could be put toward that. I know I was injured on the job, and I did get Workman's Comp, but still the pain and suffering, I don't know if that's applicable.

Q. Okay. Is there a dollar amount other than the $7,500 attorney retainer fee, the $350 filing fee, the cost for this deposition. Is there any other dollar amount that you're going to ask the court for?

A. I would ask the leniency of the court on their behalf to see if any more is due.

Q. Okay. And what would be the basis for your asking that? What damages other than what we just discussed have you incurred?

A. Pain and suffering.

Q. Okay. Because of the injury at work?

A. Correct.

Q. Okay.

MS. ROSS: And the violation of her Constitutional right to due process.

Q. (By Mr. Schrader) Okay. And what dollar amount do you assign to the alleged violation of the Constitutional right to due process? What are you going to be asking for?

A. Whatever the court --

MS. ROSS: He wants you to assign a dollar amount, so take your time and assign a dollar amount. What amount do you want?

A. With everything or just the part with my Constitutional rights?

Q. (By Mr. Schrader) Just the part with your Constitutional rights right now.

MS. ROSS: It doesn't mean you're going to get it.

A. I know, I know.

Q. (By Mr. Schrader) But at this point this is our only chance to talk to you before trial. We won't be able to ask you any other questions face to face. And what we have to do is determine exactly what it is that you're going to be asking the court for when we show up at court. So far, what we have is you have asked for declaratory relief declaring for enjoining the defendants for violating your Constitutional protective rights and awarding you a contract for the 2011/2012 school year. And as we've discussed, that's already taken place. You signed the contract on August 4th for this year. So that's already been taken care of.

A. Right.

Q. And then the next item that you're asking for are attorney's fees, the cost and expense of litigation, which so far what I gathered from you was the $7,500 retainer free, $350 filing fee and whatever the cost for this deposition will be. Am I correct in that?

A. Correct.

Q. Okay. Now is there any other dollar amounts that you expect to ask the court to award you if this were to go to trial?

A. Besides what we spoke about?

Q. Yes, besides what we spoke about.

A. Like I said, the pain and suffering and my Constitutional rights.

Q. Okay. Now have you assigned a dollar amount to the value of the alleged violation of your Constitutional rights?

A. I can put a figure, okay. Let's go with a hundred grand.

Q. 100,000?

A. Uh-huh.

Q. Okay. And is that 100,000 because they didn't send you a letter letting you know that they weren't going to rehire you and not affording you the opportunity for a hearing?

A. Correct.

Q. Okay. 100,000 for that. And how did you come up with that $100,000?

A. Well, actually, I didn't have any opportunity to really think about it. That was thrown at me and I just gave a figure actually.

Q. So that I'm absolutely clear on what you're asking for as we sit here today is $7,500 for the attorney's retainer?

A. Correct.

Q. $350 for the filing fee?

A. Correct.

Q. Whatever this deposition is going to cost?

A. Correct.

Q. And a $100,000 --

A. And I want to change something --

Q. And a $100,000 because they didn't provide you written notice that you were not going to be reemployed?

A. Correct.

Q. Okay. Now you indicated that you wanted to explain something or change something.

A. Yes. Well, I wanted to add in something for pain and suffering.

Q. And that pain and suffering is only due to the --

A. The injury to my back.

Q. The injury to your back?

MS. ROSS: No, that's not related to it.

A. That's not related to that.

MS. ROSS: No. The pain and suffering is due to the violation of your Constitutional rights.

Q. (By Mr. Schrader) Okay. What pain and suffering have you sustained as a result of the alleged violation of your Constitutional rights?

A. I had sleepless nights, I was under doctor's care for medical stuff for -- separate from Dr. Senter, another doctor that prescribed sleeping medication, anxiety.

Q. Okay. What doctor is that?

A. She served under Dr. Pierce. She's a Banks. She works right here in -- what they call it, Medical Associates.

Q. Okay. Is she a nurse practitioner?

A. Yes, that's what she is.

Q. Okay. When did you see her?

A. I was seeing her during that time and around that time when this was happening.

Q. Can you narrow that down to a month?

A. I saw her months prior to that, months after.

Q. Months prior to?

A. The dismissal and right after the dismissal -- well, I said dismissal. I feel like I was terminated and going through all of this stuff, trying to find a job.

Q. Okay. You said months prior to being terminated?

A. She was my regular person I would go to see from time to time.

Q. Okay.

A. She has record of my medical history.

Q. Okay.

A. And she knows what was prescribed before and after and during the situation with the school district.

Q. Okay. What medications were you taking before?

A. You mean that she gave me because of the situation?

Q. Yes.

A. Zantax, if I remember right, and Ambien.

Q. And was that prior to you being released back to work?

A. That was one day when I realized I was terminated. I was trying to get back.

Q. That would have been in late June when that was prescribed?

A. Yes, in June, yes.

Q. Had nurse practitioner Banks ever prescribed those medications for you prior to June?

A. No.

Q. Okay. Did you see any other medical

service providers for your pain and suffering caused by the alleged violation of the your Constitutional rights?

A. No.

Q. Just nurse practitioner Banks?

A. Yes.

Q. Okay.

A. There was another doctor that worked with her. His name is Craft, but basically it was her. It was only between the two of them, but she was the main one.

Q. Brandon Craft?

A. Oh, you are aware of him?

Q. Yes, yes. Okay. Is there anything else that you're asking the court to award you at trial?

A. That's about it.

Q. Okay. So that I'm absolutely clear, you're asking for the $7,500 attorney's fee retainer, $350 filing fee, the cost of this deposition and $100,000 for the alleged violation of your Constitutional rights; is that correct?

A. Correct.

Q. Okay. Who did you talk to when you signed your 2011/2012 contract for employment?

A. You mean who called me in?

Q. Yes.

A. Okay. I got a letter in the mail to go in to see Ms. Kavanaugh.

Q. You got a letter in the mail?

A. Uh-huh.

Q. And who was that letter from?

A. I believe it was from Mr. Swinford, the superintendent.

Q. Okay. What did that letter say?

A. Well, the letter said that I was -- the letter stated that I was being considered for reemployment, my interest for reemployment back to the district, and I don't recall whether I got a phone call to tell me to come in that Friday to get my contract signed. I don't think it was a letter. I think it was a phone call I received that stated that I had to go in by that Friday which was the 4th to get my contract signed.

Q. Okay. So did you receive a letter from Dr. SWinford?

A. The letter stated that it had come to her attention that I am interested in seeking employment in the district, the Vicksburg district.

Q. Okay. Do you remember the date of that letter?

A. No, but I think it was in July.

Q. In July. Okay. Do you still have that letter?

A. I have all of these things. Yes, I do.

Q. Okay. Now after you received that letter I understand there was a telephone call?

A. Yes, I received a telephone call telling me to report to Ms. Cavanaugh's office on Friday, which I did and signed this contract.

Q. Okay. After you received the letter from Dr. Swinford, did you call anybody at the district office?

A. No.

Q. Okay. Did you send a reply letter to Dr. Swinford's office or the school district office?

A. No.

Q. Okay. Just out of the blue you got a telephone call asking you to report on that Friday to see Ms. Kavanaugh?

A. See, all these things were going on here.

Q. Right.

MS. ROSS: And I think we were in touch with your office or there was another lawyer who was involved.

MR. SCHRADER: Warren? Warren Talbert.

MS. ROSS: The one who does the help -- I think it's the regular school board attorney.

MR. SCHRADER: Briggs, Hopson?

MS. ROSS: Yes, Briggs.

MR. SCHRADER: Okay.

MS. ROSS: We were in communication after they got the complaint and Briggs set that up.

Q. (By Mr. Schrader) Okay. All right. So you received a telephone call to go see Ms. Kavanaugh about the --

A. She was going to explain to me about safety and health issues because of my back situation back on the campus, and the contract was supposed to be signed also.

Q. Okay. And you met with her on August 4th?

A. Yes, in her office.

Q. Okay. And did you also take your return to work slip to Ms. Cavanaugh's office on August 4th?

A. They received that before because I dropped it off.

Q. Okay. When did you drop it off?

A. I dropped it off in June.

Q. Okay. And you talked to Ms. Kavanaugh in June as well?

A. No. What happened was when I dropped it off, it was going on 4:00 in the afternoon, and I gave it to the secretary at her desk in the front, and I told her to please make sure this was being delivered to Ms. Grant or Ms. Kavanaugh or Ms. Johnson, whoever I said, you know, whoever's doing the Workman's Comp at that time.

Q. Okay.

A. Because I was dealing with two all the time, and then it was switched to Ms. Johnson. I delivered it myself. It was hand-delivered to the secretary.

Q. All right. Do you know the secretary's name?

A. No. The regular secretary was there. She's a black lady, but it wasn't her. It was a Caucasian lady.

Q. Okay.

A. I don't know if she was filling in, but I've seen her there several times, you know, right in the front when you come in.

Q. Right.

A. I don't know her name, but they were receiving them all the time.

Q. So this would have been in June?

A. This was in June.

Q. And you took the June 6 report, Dr. Senter's return to work slip up to the district office and left it with the Caucasian secretary at the front desk?

A. Correct.

Q. And asked that it be forward to whoever was doing the Worker's Comp?

A. Right. Right.

Q. Okay. Do you have any belief as to why the school district would not have wanted to hire you for 2011/2012?

A. No reason whatsoever. Never had a problem before.

Q. Okay. So, I mean, you're not claiming that you were discriminated against or that they think you had done something wrong or anything like that?

A. No.

Q. Okay. And has anyone other than your attorney -- I'm not asking you for anything that your attorney has told you. But has anybody else from the school district ever explained to you why you did not get a contract for the 2011/2012 school year until August 2011?

A. No.

Q. Okay. Did you ask anybody at the school district why it took until August to do that?

A. No.

Q. Okay. And is my understanding correct, the only written documentation or request that you provided to the school district was maybe a cover sheet to your resume when you were reapplying for employment?

A. A cover sheet and a resume, yes.

Q. Okay.

MR. SCHRADER: I'd like to have the contract for the 2011/2012 school year attached as the next exhibit unless you have an objection.

MS. ROSS: No objection.

(EXHIBIT NO. 6 MARKED FOR THE RECORD)

A. I'm kind of curious about something.

MS. ROSS: You can ask if that's a concern.

A. Would all these documentations that came from the doctor -- okay.

Q. (By Mr. Schrader) I follow you.

A. Nothing was stamped except this one. Why is that? I'm just curious. Because these were all

sent in on a timely basis and so was that one.
Q. Okay.
A. And I know for a fact that all was turned in in June.
Q. All right. In your pointing that out, do you have any reason to believe that someone at the school district is being less than truthful?
A. Correct.
Q. Okay. Who do you think is being --
A. I have no idea who stamped it. I don't know who did it.
Q. Okay.
A. It could be anybody. The board should know about it. I don't know.
Q. Okay. It's my understanding that you left an original with the school district; is that correct?
A. I believe I gave them the original. Usually I give them the original and keep a copy.
Q. Okay. You have a copy of this?
A. I don't have a copy of when I gave it to them stamped, but I gave them this.
Q. Okay. Do you have any written documentation that indicates when you would have provided this slip on a date other than August 4th?

A. No, because if you look, I don't have any written record on any of the others I listed, and these are regular just like the others.

Q. Now I can't answer your question because I don't know who stamped that.

A. I just thought that was kind of obvious.

Q. Okay. If you'll take a look at page 4 of the complaint which is Exhibit 4. Paragraph 16 reads: Plaintiff contends Defendant Dr. Elizabeth and others used their apparent authority to cause Celia Gumbs-Grays contract as teacher to be unlawfully breached.

What is it that Dr. Swinford or other district employees did to breach the 2010/2011 contract?

MS. ROSS: Other than what she answered?

MR. SCHRADER: I need to know specifically what they did to breach the 2010/2011 contract?

MS. ROSS: I think y'all went over that when you went over the long recitation about them not paying her the two additional months. Do you remember that?

MR. SCHRADER: I remember we discussed it. So I'm asking Mrs. Gray.

Q. (By Mr. Schrader) Your complaint says that you're alleging that the school district breached the contract, and here's the contract. I'm asking exactly what did the school district do to breach this contract?

A. They didn't pay the last two months that was due under the contract, okay.

Q. Okay. Did you make a demand for payment of that salary? Did you ever ask them for that?

A. No.

Q. Did the school district do anything else to breach that contract in your opinion?

A. No.

Q. Just failure to pay the last two months. That would be June and July.

A. Correct.

Q. Okay. Now do you agree with me that you had not earned the last two months of that salary by working?

A. Well, I did not work, but due to the injury I sustained on the job I was unable to be at work because of the situation. Otherwise I would have been at the school doing my job.

Q. Okay. But you do agree with me that you didn't work to earn the last two months' salary?

A. I agree I wasn't at my job, yes.

Q. Okay. And according to this contract, if you work 187 days, they would pay you $41,515, correct?

A. Correct.

Q. And you didn't work the 187 days, correct?

A. Not by choice.

Q. Right. Due to a medical condition that you had, you weren't able to work those 187 days?

A. Correct, medical issues because of the job.

Q. Okay. Now has your Worker's Comp. claim been completely resolved?

A. Yes.

Q. Okay. You're not receiving any other benefits from Workers' Comp?

A. No.

Q. Okay. Do you expect to miss any more work due to your back injury?

A. It depends, because as I'm sitting here, I always be in pain.

Q. Okay.

A. I have to take pain pills to sleep at night. Sometimes I have to take them in the day.

Q. Do you currently have any other visits with Dr. Senter?

A. Not at this time, no.

Q. And Dr. Senter is the one that did the back surgery?

A. Correct.

Q. Okay. Are you seeing any other doctors besides Dr. Senter and Dr. Strong for your back?

A. Not at this time, no.

Q. Okay. Are you seeing any other doctors for any medical conditions that are related to the incident involving the student and Grove Street?

A. Not at this time, no.

Q. Okay. As you sit here today, can you think of any reason why the school district would not want to have you as a teacher?

A. None whatsoever. I have never had a problem all the years I have been teaching, never until now. I have yet to be told why I wasn't rehired at the time.

Q. Okay. Who have you asked to find out why you weren't rehired at the time?

A. My attorney is doing all of that for me.

Q. Okay. But you personally, you haven't asked anybody at the school district why you weren't rehired prior to filing your lawsuit?

A. When I spoke with Ms. Grant, I was in shock when she told me about reapplying. And I asked her after all I've been through with the student, the surgery, recuperating and all this, I don't no longer have a job. She informed me that she's only telling me what she's been told to tell me. I didn't ask a question. The people that I was supposed to ask that question to didn't return any phone calls.

Q. And who would that person be?

A. Ms. Johnson.

Q. Did you ever have occasion to speak with Dr. Swinford about this situation prior to your filing the lawsuit?

A. No.

Q. Okay. Did you ever attempt to talk with Dr. Swinford?

A. No. The reason why I didn't attempt to speak with her is because if you're going to terminate me and don't talk to me, explain anything to me, have no meetings with me, to me you don't have anything more to say.

Q. Okay. Do you have any knowledge as to the process that the school district goes through when considering the nonrenewal of a teacher?

A. To my understanding I'm supposed to have some kind of hearing or some sort of letter supposed to go out, some kind of hearing with them and the board or whatever. That's my understanding.

Q. Have you known any teachers that have gone through that process that were recommended for non-renewal and had a hearing in front of the school board? Are you aware of any teachers that have gone through that process?

A. Oh, yes, there is one, yes. Do you need a name?

Q. Who is that?

A. Wheatley. I don't know his first name.

MR. SCHRADER: Wheatley?

A. Wheatley.

MS. ROSS: That was last year.

Q. (By Mr. Schrader) Was he out at Grove Street?

A. Yes, he was.

Q. Was he the one that we read about in the papers about the alleged insubordination and not being renewed? Is that the gentlemen?

A. Yes, that's the same person.

Q. All right. Are you aware of any other teachers that have gone through that process?

A. No.

Q. Now did I understand what you have told me today is that the individuals that you spoke to regarding this situation was Gail Kavanaugh, Myrtle Adams, Ms. Grant, Charlotte Grant. You met with Ms. Johnson prior to June 6th?

A. Correct.

Q. She told you that once you were released for work to come on back and talk to her about getting placed in the district. Have you talked to anybody else in the school district about this case?

A. No.

Q. Okay. Any other teachers at your school?

A. Well, they're aware of some things that's happened, but I don't know to what extent.

Q. You're talking about teachers or principals or --

A. Yes, because, you know, people talk.

Q. Okay. After you received information from the insurance company leading you to believe that you would not be rehired, did you have occasion to speak with your principal at Grove Street?

A. I spoke with him, but he told me he didn't want to hear anything.

Q. He didn't want to hear anything?

A. He said he didn't want to hear it.

Q. That's Dr. Wymbs, Mr. Wymbs?

A. Really, on the situation with the Worker's Comp -- okay, rephrase the question because you confuse me with principals. I had three, so I don't know which one you're speaking about.

Q. Okay. You're right. You were at WCI when you went out for your back surgery.

A. Uh-huh.

Q. That's Dr. Wiggins?

A. Wiggins.

Q. Wiggins. Okay. Dr. Wiggins was your principal when you went out with your back surgery?

A. Okay. Uh-huh.

Q. And then the following summer in June, you received the information from Blue Cross/Blue Shield, did you have occasion to talk to Dr. Wiggins about whether or not you have a position?

A. No, because when I spoke to him, I was speaking to Dr. Wiggins when I got over the surgery, and I was able to speak with him up to December of 2010. And the last time I spoke to him was not a very nice talk because he was very verbally not nice.

Q. Okay. What was that about?

A. I would call him every so often because I was told that he was my immediate supervisor, although I didn't give him these slips because that was going to the central office. Long story short, when I spoke to him that December, he took a long time before he would answer the phone. I was trying to get in contact with him for days. When he did come on the phone he took a long time to come and he was very not nice on the phone, like I was bothering him, and his attitude was you shouldn't be talking to me anymore, you need to be talking to central office because I had to give your position to someone else. So, you know, you don't need to be bothering me anymore, but I was kind of fronted with that and I didn't think that was professional.

Q. And you no longer spoke with him after December?

A. Right, because his attitude was not good.

Q. Okay. Is there anything else that you would like to tell me about this situation that you think would help me understand what's going on in this lawsuit?

A. That's basically everything I guess.

Q. Okay.

MR. SCHRADER: I'm just going to look over my documents, and if I don't have any other questions that will be it. Let me make sure I got all of my exhibits straight. I think that's it. Did you-all want to read and sign?

MS. ROSS: Yes, we do want to read and sign.

(DEPOSITION CONCLUDED AT APPROXIMATELY 11:29 A.M.)

COPY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY PLAINTIFF

V. CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD DEFENDANTS

RE-NOTICE OF DEPOSITION

TO: Lisa M. Ross, Esq.
Attorney at Law
P. O. Box 11264
Jackson, MS 39283-1264

PLEASE TAKE NOTICE that the deposition of CELIA L. GUMBS-GRAY will be taken upon oral examination and recorded by stenographic and/or videographic means before a Notary Public or other officer authorized by law to administer oaths, beginning at 9:00 a.m. on May 8, 2012, at the law offices of Teller, Hassell & Hopson, LLP, 1201 Cherry Street, Vicksburg, MS 39183. This deposition will be taken pursuant to and in accordance with the Federal Rules of Civil Procedure and may be used for any purpose, including trial. You are hereby invited to attend and participate as you deem proper.

Dated: May 1, 2012

Respectfully submitted,

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD

BY: /s/ PHILIP SCHRADER

OF COUNSEL:

TELLER, HASSELL & HOPSON, LLP
1201 Cherry Street
Vicksburg, MS 39183-2919
Telephone: (601) 636-6565
Facsimile: (601) 631-0114

EXHIBIT
tabbies
1

CERTIFICATE OF SERVICE

I, Philip Schrader, hereby certify that I have this date caused to be filed a true and correct copy of the above and foregoing utilizing the Court's Electronic Filing System, which caused a notice of said filing to be electronically provided to all counsel of record registered under the CM/ECF system.

Dated: May 1, 2012.

/s/ Philip Schrader

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS-, 580-06-3048** (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) **2010-2011** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/02/2010 and ending on 05/24/2011,** or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$41515.00,** which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

Celia L Gumbs-Gray
Employee

Date

6/01/10
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handica

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

EXHIBIT
6

COPY

Mississippi Spine Clinic

971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 9/3 20 10

Celia Gray was seen in our office today. He / She

☐ May return to work / school on ____ 20 ____.

☒ Will be re-evaluated for return to [✓ work] / school at next appointment on:

10 / 15 20 10

WORK: (May return to the below duties on the below dates.)

Regular duty ____ 20 ____ Light duty ____ 20 ____

RESTRICT: ☐ Lifting to no more than: ____ pounds

☐ Standing/Sitting to no more than: ____ hours

☐ Working to no more than: ____ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ____ 20 ____

COMMENTS: Off work until return appt.

Signature ____

EXHIBIT
3

COPY

Mississippi Spine Clinic

971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 10/15 20 10

Celia Gray was seen in our office today. He / She

☐ May return to work / school on ______ 20 ______.

☒ Will be re-evaluated for return to [✓ work] / school at next appointment on:

1-3 20 11

WORK: (May return to the below duties on the below dates.)

Regular duty ______ 20 ______ Light duty ______ 20 ______

RESTRICT: ☐ Lifting to no more than: ______ pounds

☐ Standing/Sitting to no more than: ______ hours

☐ Working to no more than: ______ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ______ 20 ______

COMMENTS: off work until next appointment

Signature ______

COPY

SCANNED

Mississippi Spine Clinic
971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 1-3 20 11

Celia Gray was seen in our office today. He / She

☐ May return to work / school on ________ 20 ____.

☒ Will be re-evaluated for return to [✓ work] / school at next appointment on: 3/7 20 11

WORK: (May return to the below duties on the below dates.)

Regular duty ________ 20 ____ Light duty ________ 20 ____

RESTRICT: ☐ Lifting to no more than: ________ pounds

☐ Standing/Sitting to no more than: ________ hours

☐ Working to no more than: ________ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ________ 20 ____

COMMENTS: ________

Signature: ________

FAXED 01-06-11

COPY

Mississippi Spine Clinic

971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 3-7 20 11

Celia Gray was seen in our office today. He / She

☐ May return to work / school on ____ 20 ____.

☒ Will be re-evaluated for return to [✓ work] / school at next appointment on:

6/6 20 11

WORK: (May return to the below duties on the below dates.)

Regular duty ____ 20 ____ Light duty ____ 20 ____

RESTRICT: ☐ Lifting to no more than: ____ pounds

☐ Standing/Sitting to no more than: ____ hours

☐ Working to no more than: ____ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ____ 20 ____

COMMENTS: ____

Signature ____

RECEIVED
AUG 04 2011
BY:

Mississippi Spine Clinic
971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 6/6 20 11

Celia Gray was seen in our office today. He / She

☒ May return to [✓ work] / school on 6/6 20 11

☐ Will be re-evaluated for return to work / school at next appointment on:

________________ 20____

WORK: (May return to the below duties on the below dates.)

Regular duty ________ 20____ Light duty ________ 20____

RESTRICT: ☒ Lifting to no more than: 40 pounds

☐ Standing/Sitting to no more than: ________ hours

☐ Working to no more than: ________ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ________ 20____

COMMENTS: ________________

Signature ________________

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
JUL 18 2011
J T NOBLIN, CLERK
BY DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY PLAINTIFF

VS. CIVIL ACTION NO. 5:11cv106 DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT and DR. ELIZABETH SWINFORD, in her Individual and Official capacities DEFENDANTS

COMPLAINT
(Jury Trial Demanded)

COMES NOW, Plaintiff Celia Gumbs-Gray, by and through her attorney, Lisa M. Ross, and files this her Complaint against the Defendants, as follows:

JURISDICTION AND VENUE

1. The defendants in this action deprived Celia Gumbs-Gray of various constitutional rights including but not limited to protected due process of law, procedural and substantive. This lawsuit is authorized and instituted pursuant to 42 U.S.C. § 1983, and the Fourteenth Amendment of the United States Constitution. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1331. Plaintiff seeks declaratory relief pursuant to 28 U.S.C. § 2202.

2. Venue is proper pursuant to 28 U.S.C. § 1391(b). A substantial part of the events or omissions giving rise to these claims acts complained of by Plaintiff occurred in Vicksburg, Mississippi.

EXHIBIT
4

17, 2010, Gumbs-Gray had to undergo surgery and was not released to return to work until June 6, 2011.

8. While Gumbs-Gray was recuperating from her surgery, she was not informed by the Vicksburg Warren County School District that she was being terminated because of her absence from work to attend to a work related injury. The Vicksburg Warren County School District did not notify Gumbs-Gray that her contract would be non-renewed. In Mississippi, certified teachers who have been employed by a school district for at least two years, are entitled to notice and a hearing before they can be suspended or terminated and/or their contract can be non-renewal. The school district did not give Gumbs-Gray notice of a suspension, termination and/or non-renewal.

9. In June 2011 after Gumbs-Gray's physician released her to return to work, she contacted school officials and was told that she should submit a resume and letter of intent in order to be considered for employment. School officials failed to pay Gumbs-Gray's salary for the months remaining on her contract after she was released from the doctor's care. School officials subsequently informed the school district's insurance carrier that Gumbs-Gray voluntarily ended her employment. (A copy of the State School Employees' Health Insurance Plan Continuation Coverage Election Notice is attached hereto as Exhibit C).

10. At all times material to this Complaint, the individual officers, directors, supervisors, managers, employees and/or agents mentioned herein, acted within the scope of their duties as officers, directors, supervisors, managers, employees and/or agents of Defendant Vicksburg Warren County School District and under the color of state law.

CAUSE OF ACTIONS

DUE PROCESS

11. The Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

12. Plaintiff contends that she had a clearly established right to a due process hearing prior to being removed from her teaching position.

13. Upon information and belief, Vicksburg Warren County School District and Dr. Elizabeth Swinford knew or should have known that Celia Gumbs-Gray was entitled to a due process hearing prior to being removed from her teaching position.

14. As a proximate consequence of the actions of Defendants Vicksburg Warren County School District and Dr. Elizabeth Swinford, Plaintiff Celia Gumbs-Gray was unlawfully denied her right to a due process hearing prior to being removed from her teaching position.

BREACH OF CONTRACT

15. Plaintiff realleges all prior paragraphs of the Complaint as if set out here in full.

16. Plaintiff contends Defendant Dr. Elizabeth Swinford and others used their apparent authority to cause Celia Gumbs-Gray's contract as teacher to be unlawfully breached.

17. Upon information and belief, Defendant Vicksburg Warren County School District knew or should have known that Defendant Dr. Elizabeth Swinford and

Vicksburg Warren County School District were breaching Celia Gumbs-Gray's contract and that Celia Gumbs-Gray was entitled to remain in her position.

RELIEF

18. Plaintiff requests that the Court issue the following relief:

a. Enter declaratory relief declaring that Defendants enjoining the defendants from violating Celia Gumbs-Gray's constitutionally protected rights.

b. Award Plaintiff Celia Gumbs-Gray a contract for the 2011-2012 school year for intentional violations of her constitutionally protected rights in an amount to be determined by a jury of her peers.

c. Award Celia Gumbs-Gray attorney fees, costs and expenses of litigation and;

d. Award such other relief to which Celia Gumbs-Gray may be entitled.

WHEREFORE PREMISES CONSIDERED, Plaintiff Celia Gumbs-Gray demands judgment against Defendants Dr. Elizabeth Swinford and Vicksburg County School District in an amount exceeding the jurisdictional requirements of this Court, all together with the costs and disbursement action, including attorneys' fees, plus interest, and for any other relief which this Court deems just and proper.

RESPECTFULLY SUBMITTED this, the 18th day of July, 2011.

CELIA GUMBS-GRAY

By: Lisa M. Ross
Lisa M. Ross, Esq. (MSB#9755)
P.O. Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 981-7917 (facsimile)

Attorney for Plaintiff

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by GUMBS-GRAY, CELIA, 580-06-3048, (employee) and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year 2004-2005 and shall hold the position of licensed teacher.

That the employee will be employed for 187 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/02/04 and ending on 05/20/05, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $35,315.00, which shall be paid in 12 equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on n amount from the Adequate Education Program salary scale for the appropriate license and years of experience f the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the mployer as compensation for which other duties are to be performed by the employee.

his contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the ws of the State of Mississippi, copies of which are available from the Superintendent's office.

his contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature the employee and the duly authorized superintendent.

James D. Price

Celia L. Gray

mployee

Superintendent

ugust 2, 2004

e

July 30, 2004

Date

EXHIBIT

A

employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY CELIA L GUMBS-. 580-06-3048 (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year 2006-2007 and shall hold the position of licensed employee.

That the employee will be employed for 187days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/01/2006 and ending on 05/25/2007, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $38440.00 which shall be paid in twelve equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 15, 2006
Date

Celia L. Gumbs Gray
Employee

5/22/06
Date

EXHIBIT
B

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY CELIA L GUMBS-, 580-06-3048 (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year 2007-2008 and shall hold the position of licensed employee.

That the employee will be employed for 187days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/01/2007 and ending on 05/23/2008, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $40030.00 which shall be paid in twelve equal installments with the first payment beginning on the last working day of the month for which duties are performed or as may be otherwise provided by law. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 28, 2007
Date

Celia L. Gumbs-Gray
Employee

May 17 2007
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY CELIA L GUMBS-, 580-06-3048 (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) 2008-2009 and shall hold the position of licensed employee.

That the employee will be employed for 187days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/01/2008 and ending on 06/01/2009, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $40525.00, which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James D. Price
Superintendent

May 12, 2008
Date

Celia L. Gumbs-Gray
Employee

May 16, 2008
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY CELIA L GUMBS -, 580-06-3048 (employee), and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) 2010-2011 and shall hold the position of licensed employee.

That the employee will be employed for 187 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/02/2010 and ending on 05/24/2011, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $41515.00, which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James L. Price
Superintendent

Celia L. Gumbs-Gray
Employee

Date

6/01/10
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the

HealW (Rev.4/10)

State and School Employees' Health Insurance Plan
Continuation Coverage Election Notice

To: Celia Gumbs Gray
Name of Employee or Qualified Beneficiary(ies)

July 11, 2011
Date Notified

This notice contains important information about your right to continue your health care coverage in the State and School Employees' Health Insurance Plan (Plan). Please read the information contained in this notice very carefully.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act (2010 DOD Act) on December 19, 2009 and the Temporary Extension Act of 2010 (TEA) on March 2, 2010, reduces the COBRA premium in some cases. On April 15, 2010, the President signed into law an extension of unemployment benefits and COBRA premium assistance. You are receiving this election notice because you experienced a loss of coverage that occurred during the period that begins with September 1, 2008 and ends with May 31, 2010 and you may be eligible for the temporary premium reduction for up to 15 months. To help determine whether you can get the ARRA premium reduction, you should read this notice and the attached documents carefully. In particular, reference the "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" with details regarding eligibility, restrictions, and obligations and the "Application for Treatment as an Assistance Eligible Individual." **If you believe you meet the criteria for the premium reduction, complete the "Application for Treatment as an Assistance Eligible Individual" and return it with your completed Election Form.**

To elect COBRA continuation coverage, follow the instructions on the following pages to complete the enclosed Election Form and submit it to Blue Cross & Blue Shield of Mississippi.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on July 31, 2011 due to:

- ☒ End of employment
  - ☐ Involuntary ☒ Voluntary
- ☐ Divorce or legal separation
- ☐ Death of employee
- ☐ Entitlement to Medicare
- ☐ Reduction in hours of employment
- ☐ Loss of dependent child status

If you believe you meet the criteria for the premium reduction, complete the "Request for Treatment as an Assistance Eligible Individual" and return it along with this page and your completed Election Form.

Each person ("qualified beneficiary") in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to 18 months:

- ☒ Employee or former employee
- ☐ Spouse or former spouse
- ☐ Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
- ☐ Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on August 1, 2011 and can last until February 28, 2012. This Election Form must be completed and returned by mail. It must be post-marked no later than September 8, 2011

EXHIBIT
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COPY

Vicksburg Warren School District
1500 Mission 66 • P.O. Box 820065
Vicksburg, Mississippi 39182

Celia Gumbs Gray
2621 Roosevelt Ave
Vicksburg, MS 39180

UNITED STATES POSTAGE
PITNEY BOWES
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JUL 12 2011
MAILED FROM ZIP CODE 39180

EXHIBIT
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State and School Employees' Health Insurance Plan
Continuation Coverage Election Notice

To: Celia Gumbs Gray
Name of Employee or Qualified Beneficiary(ies)

July 11, 2011
Date Notified

This notice contains important information about your right to continue your health care coverage in the State and School Employees' Health Insurance Plan (Plan). Please read the information contained in this notice very carefully.

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To elect COBRA continuation coverage, follow the instructions on the following pages to complete the enclosed Election Form and submit it to Blue Cross & Blue Shield of Mississippi.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on July 31, 2011 due to:

☒ End of employment
  ☐ Involuntary ☒ Voluntary
☐ Divorce or legal separation
☐ Death of employee
☐ Entitlement to Medicare
☐ Reduction in hours of employment
☐ Loss of dependent child status

If you believe you meet the criteria for the premium reduction, complete the "Request for Treatment as an Assistance Eligible Individual" and return it along with this page and your completed Election Form.

Each person ("qualified beneficiary") in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to 18 months:

☒ Employee or former employee
☐ Spouse or former spouse
☐ Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
☐ Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on August 1, 2011 and can last until February 28, 2012. This Election Form must be completed and returned by mail. It must be post-marked no later than September 8, 2011

Health5 (Rev.4/10)

COPY

COBRA Continuation Coverage Election Form

Instructions: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan.

Send completed Election Form to:

Blue Cross & Blue Shield of Mississippi
PO Box 23734
Jackson, MS 39225

This Election Form must be completed and returned by mail. If mailed, it must be post-marked no later than September 8, 2011.

If you do not submit a completed Election Form by the due date shown above, you will lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you furnish a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you furnish the completed Election Form.

I (We) elect COBRA continuation coverage in the State and School Employees' Health Insurance Plan (Plan) as indicated below:

	Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
a.				
b.				
c.				
d.				

Signature

Date

Print Name

Relationship to individual(s) listed above

Print Address

Telephone number

COPY

Vicksburg Warren School District
PO Box 820065 / 1500.Mission 66
Vicksburg, MS 39182
601-638-5122

TO ASSURE CONTINUITY AND AVOID POSSIBLE CLAIM DENIAL,

If you do not choose continuation coverage, your group dental insurance coverage ends on the date of the qualifying event.

If you choose continuation coverage, your employer is required to give you Coverage which, as of the time coverage is being provided, is identical to the coverage provided under the Plan to similarly situation employees or family members. The law requires that you be afforded the opportunity to maintain continuation coverage for three years unless you lost, group dental coverage because of a termination of employment or reduction in hours. In that case, the required continuation of coverage period is 18 months. However, the law also provides that your continuation coverage may be cut short for any of the following reasons :

1. The Employer no longer provides group Dental coverage to any of its employees;
2. The premium for your continuation coverage is not paid (30 day grace period);
3. You become an employee covered under another group dental plan;
4. You become eligible for Medicare or ____
5. You remarry and are covered under your new spouse's group dental plan.

You must submit the monthly payment to the employer at the address shown. above. If you wish to add a newly acquired dependent, you must notify, us within 31 days of the date of acquisition. You will be informed of any resulting premium change.

You do not have to show that you are insurable to choose continuation coverage. Any change in benefits or premium occurring during the period of continuous coverage will be communicated to you and will be reflected in your monthly payments.

Myrtle Adams, Insurance
601-638-5122

PLEASE SIGN THE REVERSE SIDE OF THIS LETTER AND RETURN TO:

Myrtle Adams
Vicksburg Warren School District
PO Box 820065
Vicksburg, MS 39182

COPY

ELECTION OF DENTAL BENEFITS CONTINUATION

NAME: Celia Gumbs Gray

GROUP NUMBER: 635904-002

CERTIFICATE NUMBER: ____________

I understand that continuation of group dental coverage is available to me due to-

xx 1. my termination of employment

____ 2. my loss of eligibility de to reduced hours

____ 3. Death of my spouse/parent

____ 4. Divorce or legal seperation

____ 5. Loss of dependent coverage because the covered employee became eligible for Medicare;

____ 6. Loss of coverage as a dependent child because I have reached the limiting age unde our group plan.

I have been notified of my right and obligations with respect to continuation of my group dental coverage, and I make the following election:

____ I request my group dental coverage to be continued. The required Premium will be pai in full within 45 days.

____ I do not want my group dental coverage continued.

____________ Signed

____________ Date

THIS PORTION TO BE COMPLETED BY THE EMPLOYER AT THE TIME OF NOTIFICATION

Date coverage terminates without continuation: July 31, 2011

Date notice of Continuation Rights given: July 11, 2011

.Date Election of Continuation due: August 24, 2011

Amount of monthly premium: $33.80

Form 4213-3188

IMPORTANT INFORMATION ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS

What is continuation coverage?

Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage when there is a "qualifying event" that would result in a loss of coverage under an employer's plan. Depending on the type of qualifying event, "qualified beneficiaries" can include the employee (or retired employee) covered under the group health plan, the covered employee's spouse, and the dependent children of the covered employee.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who are not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the Plan, including open enrollment and special enrollment rights.

How long will continuation coverage last?

In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of 18 months. In the case of loss of coverage due to an employee's death, coverage may be continued for up to a total of 36 months. In the case of loss of coverage due to a divorce or legal separation, an employee becoming entitled to Medicare benefits or a dependent child ceasing to be a dependent under the terms of the Plan, coverage may be continued for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. This notice shows the maximum period of continuation coverage available to the qualified beneficiaries.

Continuation coverage will be terminated before the end of the maximum period if:

- any required premium is not paid in full on time,
- a qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- a covered employee becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- the employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of participant or beneficiary not receiving continuation coverage (such as fraud).

How can you extend the length of COBRA continuation coverage?

If you elect continuation coverage, an extension of the 18-month period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify Blue Cross & Blue Shield of Mississippi (BCBSMS) of a disability or a second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

Disability

An 11-month extension of coverage may be available if any of the qualified beneficiaries is determined by the Social Security Administration (SSA) to be disabled. The disability has to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. You must make sure that BCBSMS is notified of the Social Security Administration's determination within 60 days of the date of the determination and before the end of the 18-month period of COBRA continuation coverage. This notice should be sent to Blue Cross & Blue Shield of Mississippi, P O Box 23734, Jackson, MS 39225. Each qualified beneficiary who has elected continuation coverage will be entitled to the 11-month disability extension if one of them qualifies. If the qualified beneficiary is determined by SSA to no longer be disabled, you must notify the Plan of that fact within 30 days after SSA's determination.

Grace periods for periodic payments
Although periodic payments are due on the dates shown above, you will be given a grace period of 30 days after the first day of the coverage period to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment.

If you fail to make a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan. Your first payment and all periodic payments for continuation coverage should be sent to:

Blue Cross & Blue Shield of Mississippi
P O Box 23734
Jackson, MS 39225

MAKE CHECKS/MONEY ORDERS PAYABLE TO: STATE/SCHOOL INSURANCE FUND

NOTE: NSF and other returned checks will be assessed a $30 handling fee and must be satisfied immediately to avoid coverage termination.

For more information
This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your *Plan Document*. If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your *Plan Document*, you should contact BCBSMS at 800-709-7881.

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

Keep Blue Cross & Blue Shield Informed of Address Changes
In order to protect your and your family's rights, you should keep the BCBSMS informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to BCBSMS.

Second Qualifying Event
An 18-month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first 18 months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify BCBSMS within 60 days after a second qualifying event occurs if you want to extend your continuation coverage.

How can you elect COBRA continuation coverage?
To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all of the qualified beneficiaries.

In considering whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied to you by other group health plans if you have more than a 63-day gap in health coverage, and election of continuation coverage may help you not have such a gap. Second, you will lose the guaranteed right to purchase individual health insurance policies that do not impose such pre-existing condition exclusions if you do not get continuation coverage for the maximum time available to you. Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage ends because of the qualifying event listed above. You will also have the same special enrollment right at the end of continuation coverage if you get continuation coverage for the maximum time available to you.

How much does COBRA continuation coverage cost?
Each qualified beneficiary is required to pay the entire cost of continuation coverage. The amount a qualified beneficiary is required to pay may not exceed 102 percent (or, in the case of an extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

When and how must payment for COBRA continuation coverage be made?
First payment for continuation coverage
If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than 45 days after the date of your election. (This is the date the Election Notice is post-marked.) If you do not make your first payment for continuation coverage in full not later than 45 days after the date of your election, you will lose all continuation coverage rights under the Plan. Coverage will not be reinstated until the initial payment is received. This payment must include all premiums due for the coverage period beginning with your COBRA coverage effective date through the current month. You are responsible for making sure that the amount of your first payment is correct. You may contact BCBSMS to confirm the correct amount of your first payment. If you wish to have your monthly premium paid by bank draft, contact BCBSMS at 800-709-7881.

Periodic payments for continuation coverage
After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due on the first day of the month for that coverage period. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan will send periodic notices of payments due for these coverage periods.

Copy

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
FOR ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY, CELIA, 580-06-3048, and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) 2011-2012 and shall hold the position of licensed employee.

That the employee will be employed for 187 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/02/2011 and ending on 05/24/2012, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $42,010.00, which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer, the Mississippi Educator Code of Ethics and Standard of Conduct adopted by the state Board of Education, and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

Superintendent

Celia A. Gamble-Gray
Employee

08/04/2011
Date

08/04/2011
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

EXHIBIT
6

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CELIA L. GUMBS-GRAY

PLAINTIFF
VS.
CIVIL ACTION NO. 5:11CV106DCB-JMR

VICKSBURG WARREN SCHOOL
DISTRICT and DR. ELIZABETH
SWINFORD, in her individual and
Official capacities
DEFENDANTS

****

DEPOSITION OF DR. ELIZABETH SWINFORD

Taken at the law offices of
Teller, Hassell & Hopson,
1201 Cherry Street,
Vicksburg, Mississippi,
on Tuesday, June 19th, 2012,
beginning at approximately 10:04 a.m.

****

REPORTED BY:
DEBRA A. WILLIAMS, CSR, #1748
ON BEHALF OF VANESSA ADDISON, CSR, #1525
Post Office Box 20642
Jackson, Mississippi 39289
Vanadd1@aol.com

APPEARANCES

For the Plaintiff:
LISA M. ROSS, ESQ.
Attorney at Law
Post Office Box 11264
Jackson, Mississippi 39283-1264

For the Defendants:

W. BRIGGS HOPSON, III, ESQ.
Teller, Hassell & Hopson, LLP
401 East Capitol Street, Suite 600
1201 Cherry Street
Vicksburg, Mississippi 39181-2919

Also Present:
Celia Gray

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EXHIBIT
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STIPULATION

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys of record, that this deposition may be taken at the time and place hereinbefore set forth, by DEBRA WILLIAMS, Court Reporter and Notary Public, pursuant to the Rules;

That the formality of reading and signing is specifically NOT WAIVED;

That all objections, except as to the form of the questions and the responsiveness of the answers, are reserved until such time as the deposition, or any part thereof, may be used or sought to be used in evidence.

* * *

DR. ELIZABETH SWINFORD
having been first duly affirmed,
was examined and testified as follows:

EXAMINATION

BY MS. ROSS:

Q Dr. Swinford, my name is Lisa Ross and I represent Celia Gray in this matter. I want to ask you some questions about her employment with the school district here. If I ask you a question that you don't understand, please let me know and I'll be happy to rephrase the question for you.

A Yes, ma'am.

Q If you need to take a break at any time, please let us know and we'll do that as well. Would you state your full name for the record?

A Elizabeth Duran Swinford.

Q Where are you currently employed?

A Vicksburg Warren School District.

Q And how long have you been employed there?

A A year and ten months.

Q And what's your position?

A Superintendent.

MR. HOPSON: Lisa, can I interrupt you for just a second?

MS. ROSS: Okay.

MR. HOPSON: Usual stipulations?

MS. ROSS: Yes.

MR. HOPSON: Okay. Thanks. We're going to read and sign, too, by the way.

BY MS. ROSS:

Q Where were you born, Dr. Swinford?

A New York.

Q And did you attend school in New York?

A Elementary. Part of my elementary.

Q Is that New York City, New York?

A Yes, ma'am.

Q And where did you attend middle school?

A Puerto Rico.

Q And where did you attend high school?

A Puerto Rico.

Q What year did you graduate from high school?

A 1978.

Q And what did you do immediately after graduating from high school?

A College.

Q What college?

A InterAmerican University.

Q And where is InterAmerican University?

A Puerto Rico.

Q What did you study?

A My major?

Q Yes.

A Biology with a minor in Secondary Education.

Q Did you graduate from InterAmerican University?

A Yes, ma'am.

Q What year?

A 1983 and 1986.

Q What did you receive a degree in in 1983?

A Biology.

Q And what did you receive a degree in in 1986?

A A minor concentration in education. I'm a biologist-turned teacher.

Q So in 1986, was this another biology degree or an education degree?

A I took my educational courses to be able to teach.

Page 9

Q Okay. In 1983, was this a B.S. degree?

A Yes.

Q And in 1986, was it a B. S. ?

A Using my credits for biology, it completed a B. A.

Q Okay. And was this at the same university?

A Yes, ma'am.

Q Okay. Did you work between 1983 and 1986?

A Yes.

Q Where did you work?

A American Military Academy.

Q And what was your job there?

A Teacher.

Q And did you teach? What did you teach?

A Science.

Q How long did you work at American Military Academy?

A Until 1988.

Q Between 1986 and '88, were you attending any college?

A No.

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Q Okay. And where you working at any place other than American -- well, you started to work at American Military Academy, what year?

A 1983.

Q 1983. And you worked there through 1988. Did you have any other employment during that time period?

A No.

Q And why did you leave American Academy in 1988?

A I moved to Florida.

Q And where did you go to work?

A Volusia County. Actually, Warner Christian Academy.

Q And what did you do there?

A Taught science and math and Spanish.

Q How long did you teach there?

A A year and a half.

Q What city is that where this school was located?

A South Daytona, Florida. Two and a half, actually.

Q So around 1991 you would have left?

A In January of '91.

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Q And where did you go to work?

A Volusia County Schools.

Q And what was your job there?

A Science teacher and Dean of Students and assistant principal.

Q So you held three jobs for the Volusia County School District?

A I worked there for five years, and I was promoted three times in that space of time.

Q Okay. So around 1996 you left that school district?

A Around '96, yes.

Q Okay. Where did you go?

A California.

Q And where did you work in California?

A Morongo Unified School District.

Q What county or city did you work in in California? What county or city?

A Morongo.

Q Morongo. Okay.

A Morongo Unified School District.

Q Okay. Where is that? What county is that? Is that Morongo County?

A No. It's in San Bernardino.

Q Okay. And what did you do in that district?

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A I was assistant principal and subsequently promoted to principal.

Q And how long were you principal at that school Morongo?

A Within that district?

Q Yeah, within that district.

A Probably three years. It was three years.

Q And what school were you principal at?

A Twentynine Palms High School. I was the first female principal.

Q And you said you worked there three years as the principal. What did you do after serving as the principal at that district for three years?

A I moved to Caddo Parish, Louisiana.

Q And where were you employed in Louisiana?

A Caddo Parish Schools.

Q And what was your position?

A Director of Certified Personnel. And that was in July 2001.

Q July of 2001?

A Yes, ma'am.

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Q And how long did you work there?

A Close to two years.

Q Why did you leave?

A I was promoted. I got an offer to be associate superintendent over human resources in the East Baton Rouge Parish school system, and an opportunity to be closer to my family, which lived in Biloxi.

Q How long did you serve as the assistant superintendent over human resources?

A Associate superintendent.

Q Associate in Baton Rouge.

A Since 2003. Seven years. Until 2010.

Q And while working as the associate superintendent of human resources in Baton Rouge, what were your duties?

A I oversaw certified teachers as well as classified personnel. I recommended changes to policies and implemented policies. I oversaw the teacher induction program, new teacher induction as well as veteran teacher induction into the district. I also oversaw professional development. I hired, fired, disciplined. I also implemented the evaluation of employees, employee assessment program.

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Recommended folks for EAP, Employee Assistance, as needed. Maintained job descriptions. Recommended changes to those.

I monitored the legislative sessions to make sure that our policies aligned with the changes as they occurred, among other things. Served as superintendent in the absence of the superintendent as well.

Q In Louisiana while working for the school district, did you ever inform any certified teacher of her termination?

A Yes, ma'am.

Q Were you required by state law in Louisiana to inform a teacher when she was being terminated?

A Absolutely.

Q And why were you required to do that?

A Why?

Q Yes.

A It was the law.

Q And when you informed a teacher that she's being terminated, would you send a letter to the teacher?

MR. HOPSON: Lisa, let me --

BY MS. ROSS:

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Q In Louisiana.

A In Louisiana we would have a --

MR. HOPSON: Hold on. Go ahead.

THE WITNESS: We would have a conversation with the person and then follow-up with a letter.

BY MS. ROSS:

Q Does the Warren County School District have an Associate Superintendent of Human Resources?

A No, ma'am. And it's Vicksburg Warren School District. We're one of the few unified school districts in the state of Mississippi.

Q Who is responsible for human resources here at the Vicksburg Warren School District?

A Responsible for human resources?

Q Yes.

A Ultimately the superintendent is responsible. My assistant superintendent, Ms. Hullum, oversees that department.

Q Who is your assistant superintendent?

A The assistant superintendent that oversees human resources is Ms. Debra Hullum.

COURT REPORTER: Could you spell her last name?

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THE WITNESS: H-u-l-l-u-m. And Debra is actually D-e-b-r-a.

BY MS. ROSS:

Q Did you bring her with you when you joined the school district?

A No, ma'am.

Q Do you know Ms. Celia Gray?

A Not really. We've seen each other in passing. But, no, I really don't know her.

Q Was Ms. Celia Gray terminated by the school district?

A No, ma'am.

Q And why do you say she was not terminated?

A Because she was not terminated.

Q Was there ever a time when she did not work for the district?

A To the best of my knowledge, she was ill, incapacitated. And during that time, she did not work for the district, but she was an employee of the district. She was just not performing her duties. She was incapacitated during that time.

Q How are certified employees or teachers like Ms. Gray paid by the school

district each month?

A What do you mean how are they paid?

Q Are they paid every month?

A Monthly, yes, ma'am.

Q For 12 months?

A I'm not sure how she's paid.

Q Well, what are your options?

A Some categories of employees are allowed to be paid over nine months or over 12 months.

Q And what category of employees can you pay over nine months?

A It all depends. An employee can request that their nine-month check be spread over 12 months instead of over nine months.

Q And is it your testimony today that you don't know what election Ms. Gray made?

A No, I don't know how she gets paid, no, ma'am.

Q If she elected to be paid over a 12-month period, how would that work if she said I want to receive a check even when I'm off work in the summer?

A I believe that her yearly salary is actually calculated based on her years of

experience and her degrees. So that amount would be divided over 12 months or it would be divided over the number of months that she would be paid, nine, ten or twelve, whatever the options are. At the end of the day, she would make the same yearly amount.

Q So if she had been off work and she presented upon her return a statement where she was allowed to come back to work in June of 2011, when would she get her first check?

A I'm not sure.

Q Okay. How does that work?

A I don't know. I don't understand that scenario that you're postulating.

Q Okay. Now, an employee is entitled to the 12 months if they elected to receive their check over a 12-month period. They're entitled to the 12 months once they certify that they can work?

MR. HOPSON: Objection to the conclusion of law.

MS. ROSS: Well, no, it's not a conclusion of law. It's a question.

MR. HOPSON: Well, you're asking her to make some legal determinations that are

not for her to make. But subject to that, she can try to answer it.

THE WITNESS: Can you ask that question again?

BY MS. ROSS:

Q Okay. Was Ms. Gray paid -- did she receive a check from the district in June of 2011?

A I don't know that.

Q Did she receive a check from the district in July of 2011?

A I would further say I don't know when Ms. Gray received a check. As capable as I am, I'm not capable of memorizing the pay dates of every employee. And that was not something that I looked at.

Q Okay. Well, did she receive a check in August of 2011?

A I answered that. I don't know when Ms. Gray received a check or not, ma'am. I'm sure we have records that would reflect that.

Q Can you take a look at that document please (indicating)?

A (Complies.)

Q Can you tell me what that is?

A It's a teacher contract.

Q From what school district?

A From our school district, Vicksburg Warren School District.

Q And did you sign that contract?

A No.

Q Who signed that contract?

A Mr. James Price.

Q And who was he?

A He was the superintendent.

Q Before you?

A Yes, ma'am.

Q And according to that contract, what period of time was Ms. Gray supposed to work for the district?

A She worked for the 2010-2011 school year.

Q And what dates was she expected to work under that contract?

A August 2nd through May 24th.

Q If Ms. Johnson elected to receive pay for that time period that she worked, August 2nd through May of 2011, and she selected to receive it over a 12-month period, what months would she be paid in?

A Two questions. Who is Ms. Johnson?

Q Well, Ms. Gray.

A Oh. If she would elect her check to be paid over 12 months, she would get 12 checks.

Q Okay. But I want you to tell me the months that she would have been paid. Tell me the months.

A I don't know how the payroll runs, what would be the first month of the first check. She starts in August. And I'm not sure if in August, they get the check in August or if it's the check of July. So I'm not sure how payroll runs. So I wouldn't dare to answer that without asking my staff.

Q Why didn't Ms. Johnson work --

A Who's Ms. Johnson?

Q Why didn't Ms. Gray work in the school district in 2010?

A To the best of my knowledge, she was employed by the school district in 2010-2011.

Q When did you actually start as superintendent?

A August 23rd, 2010.

Q Was Ms. Gray employed in the school

district in June of 2011?

A In June of 2011?

Q Yes.

A Yes. Absolutely.

Q When did you send out the contracts for new teachers in 2011?

A Before school ended. Probably April or May. Every teacher who was board approved to work the next year was issued a contract.

Q Okay. So every teacher who was board approved was issued a contract in May of 2011?

A Around that time, yes. End of April or beginning of May. I'm estimating the dates. I know it was before school let out.

Q Okay. And how were those contracts issued?

A I believe they were mailed.

Q Was Ms. Gray mailed a contract?

A I'm not sure. Ms. Gray, at that time, was on approved leave. And it rested upon her to bring us a return to work, which we had not received.

Q Well, according to this document, Ms. Gray was employed from August 2nd of 2010 until May 24th of 2011, right?

A Yes. Those are the dates on the contract.

Q So you initially said that all teachers who were certified, who were board approved was issued a contract, right?

A Um-hum (affirmative response).

Q Is it your duty, as superintendent, to let the board know every teacher you're going to be issuing a contract to?

A The board approves all employment.

Q Okay. And you did not in May of 2011 present a contract to the board for Ms. Gray, did you?

A I did not have a release to work, so I could not do so.

Q So you did not present a contract to the board for her to work?

A She did not have a release to work, so I did not issue a contract in the absence of a release to work.

Q So the answer is, no, you did not present a contract to the board for Ms. Gray?

A I've answered it three times.

MR. HOPSON: Objection. It's been asked and answered.

BY MS. ROSS:

Q Okay. And the answer is no?

MR. HOPSON: Same objection.

THE WITNESS: I answered. You're saying. I did not say that.

BY MS. ROSS:

Q Okay. So tell me --

A My answer is, in the absence of a release to work from a doctor, she was not extended a contract at that time.

Q Okay. So she was not extended a contract?

A In the absence --

MR. HOPSON: It's been asked and answered.

BY MS. ROSS:

Q And whose policy is that pursuant to?

A Our practice has always been that if an employee is under medical care, they need to bring a document that releases them to return to work. We're not the doctors. We cannot say if someone is healthy enough or ready to return to work. It must be done by a doctor.

Q So you did not do this pursuant to a policy? A district policy?

A There is a policy. I just don't know which one.

Q Then what is the policy?

A I knew that was going to be your question, and I just don't know the policy itself. But common sense also dictates that when an employee is under medical care, you really do not want them to return to work. Especially if they're good workers, they're going to come to work even ahead of time. You really want to wait on the doctor to release them to return to work.

Q Yeah, but we're talking about the policy that you claim you were acting pursuant to. And I'm asking you what that policy is. So do you know what the policy is?

A The practice of the office has always been that they ask for a return to work. A certificate that is a return to work.

Q So how do you inform teachers like Ms. Gray of what the policy is?

A Our policies are online. They're available to all employees via the internet. If they call the office of human resources, they can get the answer. If they call my secretary, she will also provide the information.

Q So there is a policy online that says if you're off on sick leave and you're a certified teacher, before we can extend you a new contract, you need to bring us a release from the doctor?

A No.

Q Okay. So what does the policy require?

A I'm not sure exactly how the policy reads. But our practice -- there are two sets of things. You have your policies that are governed by law, right? They're the law. And then you have your administrative regulations, which is how you implement policy. And part of the practices can exceed the expectations of the law. And as such, our office has always exceeded the expectation of the law, and we have required for a medical certificate to be presented for a person to return to work.

Q Okay.

A If an employee goes on maternity leave, we expect a medical certificate for the person to report to work. If they're on Workers' Compensation, we expect for a medical certificate releasing that person to return to work. As a part of that medical certification, we also expect any accommodations that we might have to make for an employee. We would not be aware if they require any accommodations if we wouldn't ask for that certificate. So it's our procedures.

Q Did you ever send Ms. Gray any sort of letter informing her of this practice or policy?

A I wouldn't send that.

Q Well, you're the superintendent, right?

A I wouldn't send that.

Q Okay. Who would send it, ma'am?

A I'm not sure if anyone would. Our policies are available online. All employees are made aware that they are online for them to peruse. I believe that she was under the care of Workers' Compensation for a period of time. So they would be the ones that would be working with her regarding her return to work.

Q But as a certified employee, the people who are working with her on Workers' Comp cannot extend her contract, right?

A No, ma'am.

Q Okay. That would come through your office?

A Yes, ma'am.

Q Okay. Would the recommendation of her principal?

A I don't know that.

Q Well, I mean, superintendents don't hire teachers, do they?

A We do recommend them before the board.

Q Yeah, but they get recommended to you by whom?

A By the principal.

Q Okay. And who was the principal at Ms. Gray's school?

A Which was Ms. Gray's school?

Q You don't know?

A No, ma'am.

Q Okay.

A Again, as capable as I am, I do not memorize the school assignments of all 650 teachers in our district.

Q But it's your job to send out nonrenewal letters, right?

A Yes.

Q What's a nonrenewal letter?

A A nonrenewal letter would be a letter informing employees that they would not be returning to work. That their contract is not being renewed for the subsequent school year.

Q So when you have teachers who are off on medical leave and their contract has ended like Ms. Gray's did in May of 2011, would you send them a nonrenewal letter?

A No. Not unless we're terminating them, we wouldn't do that, no, ma'am.

Q Who would Ms. Gray be required to report her ability to return to work to?

A Definitely the Office of Human Resources would need to know that. But she could do that also through her principal. And the principal will make sure that the Office of Human Resources is aware.

Q Well, do you know of anyone who Ms. Gray spoke to about returning to work in May or June of 2011?

A No, ma'am.

Q Okay. You've not talked to any of your employees about this situation?

A Yes, I have.

Q Okay. And have any of them told you about any conversations they had with Ms. Gray about her desire to return to work?

A No.

Q Okay. No one told you that Ms. Gray expressed to them that she wanted to return to work?

A No. And I wouldn't ask that either. For me, the question would be, do we have a return-to-work certificate for her to be issued a contract? In the absence of that, we would not issue her a contract until we receive a return to work.

Q Okay. You would never have a conversation with anyone about her interest in returning to work?

A That's what you're saying. I didn't say that. I would say in this case, in Ms. Celia Gray's case, we were waiting on the certificate that would release her from the doctor or medical to be able to return to work.

Q Okay.

A That was our -- our conversations were do we have a release to work? No.

Q Okay. Have you seen this document (indicating)?

A No, ma'am.

Q Okay. You've never seen that document before?

A I'm not sure. I know I received one. But I believe it was in August, the one that I received. I didn't receive this.

Q Okay. What date did the doctor release her to return to work?

A The certificate indicates a June 6th date of 2011.

Q So if you had received that in June, how long would it take for you to get in touch with her about coming in and executing a contract?

A Upon receipt, she would have been offered a contract.

Q Okay.

MS. ROSS: I'd like to have this marked as the next exhibit. Well, mark that one, too.

(EXHIBIT NOS. 1 AND 2 MARKED FOR THE RECORD.)

BY MS. ROSS:

Q When an employee voluntarily leaves

the district -- well, let me ask you this: According to Exhibit 1, Ms. Gray's last day at work was to be May 24th of 2011.

A Right.

Q And you're saying on that date she had not presented a return-to-work certificate?

A Correct.

Q So what would her status be in the district?

A She would be an employee, but she would be inactive until we get a medical release.

Q What would happen to her insurance benefits?

A If she's out of FMLA days? It all depends on FMLA. Does she have sick leave? Nonsick leave? Is she on Workers' Comp? Not on Workers' Comp? So it all depends. They're very --

Q So let's go through all of those scenarios.

A I don't know them all.

Q Okay. Well, let's talk about the ones you know, since you brought it up.

A Okay.

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Q Okay. If she's out on FMLA?

A Those run concurrent with her sick leave.

Q What would her status be?

A Inactive. That is a leave without pay. If she had sick leave, then she would receive compensation for the sick leave days that she has left. But even is she runs out of sick leave, she would be protected over FMLA for whatever period of time in 90 days. So she would still be an employee of the district during an FMLA period.

Q So then she could still have her insurance benefits?

A During FMLA, yes.

Q What if she's on Workers' Comp?

A Now, I don't know Workers' Comp in Mississippi. I don't know how it works. I know Workers' Comp pays a part of her salary or her salary, but I don't know what part. So I don't want to --

Q When employees involuntarily leaves the school district, can they just elect to take their insurance benefits with them if they quit?

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A You said involuntarily.

Q Or voluntarily.

A Voluntarily or involuntarily doesn't matter. COBRA is always extended to employees irrelevant of how they leave. Or COBRA is also extended to employees when the district will no longer pay the portion, the employer's portion, of their insurance. That's what the COBRA laws are for.

Q And under what circumstances would the district not pay the employer's portion of an insurance for an employee?

A When the employee becomes inactive and has exhausted FMLA, which is Family Medical Leave Act.

Q I ask you to take a look at that document, please (indicating).

A Okay.

Q I want you to read that because I have questions about it.

A What do you want --

MR. HOPSON: You want her to read the entire document?

THE WITNESS: I'm not going to read the entire document. I mean, if you want to point out the sections that you want me to read, I can probably do that. But to read the entire document --

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BY MS. ROSS:

Q No. Well, this is my deposition.

A I can't memorize it.

Q I'm not asking you to memorize it. I'm asking you to --

A I'm still going to have to reread it, as you ask questions, ma'am.

Q No, no. But I'm asking you to -- you may have to reread it. But I'm asking you to read it so that you will know what's in the document so we can talk about the document. And if you need to refer back to the document, we have all day.

A I'm aware of the document.

MR. HOPSON: Let's don't -- go ahead and ask questions about the document if you'd like, Lisa.

BY MS. ROSS:

Q What is that document?

A It is a COBRA notification from the Vicksburg Warren School District.

Q Okay. Who was that document sent to?

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A To Ms. Celia Gumbs-Gray.

Q And according to you, an employee would get that document when the employee has been inactive and exhausted Family Medical Leave?

A Family Medical Leave --

MR. HOPSON: Let me object, first of all, to the characterization of the testimony. But subject to that, you can answer it.

THE WITNESS: What I said was that this document is sent out when the employee exhaust their FMLA. Yes.

BY MS. ROSS:

Q Okay. And you said it's sent out when the employee has been inactive and exhausted FMLA?

A Right. They're in an inactive state, yes.

Q Okay.

A They're still employees, but they're in an inactive state, yes, ma'am.

Q Okay. And that notice is being sent out to let them know what?

A That they can continue participating

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in the medical plan, but they would have to pay the employer portion as well as their portion of the medical claim.

Q Okay. And in that document you tell the person why their COBRA continuation coverage is ending?

A Yes.

Q Okay. And that document, as it relates to Ms. Celia Gray, does not say that her COBRA continuation coverage was ended because she was inactive and had exhausted FMLA, does it?

A No. That's not an option for us to mark.

Q And what is the option that was marked?

A End of employment, voluntary.

Q Okay. And who is responsible for completing this document?

A I believe -- well, someone in my office. I'm not sure if it's HR.

MS. ROSS: I want to have that marked as the next exhibit.

(EXHIBIT NO. 3 MARKED FOR THE RECORD.)

BY MS. ROSS:

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Q And what was the reason given for the termination of Ms. Gray's COBRA continuation coverage?

MR. HOPSON: In this document?

MS. ROSS: Yes, in the document.

THE WITNESS: Say that again.

BY MS. ROSS:

Q What was the reason that the district checked for notifying Ms. Gray that her COBRA continuation coverage --

A Oh, what I just read.

MR. HOPSON: The same thing.

THE WITNESS: End of employment, voluntary.

BY MS. ROSS:

Q Okay. What was the basis for that? What facts did the district rely on in determining that she had voluntarily left her employment?

A We had not heard from Ms. Gray. We had received no communication, nor had he received a release from work. But we had not terminated her from the district.

Q And when you say we had not heard from Ms. Gray, what we are you talking about?

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A My employees. My assistant superintendent had not received a release for her to return to work, nor had my office, nor the human resources office. No one had received a release for her to return to work, nor an indication that she was going to return to work.

Q Who was your assistant superintendent?

A I have two.

Q Well, the one you were talking about, ma'am.

A For which case?

Q The one that you're talking about who hadn't heard from Ms. Gray.

A To the best of my knowledge, neither one of them had.

Q And who are they?

A Oh. Debra Hullum and Paula Johnson. You can ask a little bit more politely. I'm just --

Q No, I'm asking --

A You're asking for clarification.

Q I'm asking the way you're talking to me. Okay?

A But you told me I could ask for

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clarity. I was asking for clarity.

Q Whatever. I ask you to take a look at that document (indicating).

A (Complies.)

MR. HOPSON: Since she's looking at that, let me take a break real quick.

(A BREAK WAS TAKEN.)

BY MS. ROSS:

Q What facts besides the facts that you claim that Ms. Johnson did not contact the school district and --

MR. HOPSON: You mean Ms. Gray?

BY MS. ROSS:

Q Ms. Gray did not contact the school district and did not produce a return-to-work certificate did the district rely on in determining that Ms. Johnson's employment had ended vol --

MR. HOPSON: You mean Ms. Gray.

BY MS. ROSS:

Q Ms. Gray's employment had ended voluntarily as of July 11th of 2011?

MR. HOPSON: Let me object, first of all. Does that have anything to do with the document that you presented to her?

That you've got in front of her right now?

MS. ROSS: No.

MR. HOPSON: It pertains to the COBRA document?

MS. ROSS: That's right.

MR. HOPSON: Okay.

THE WITNESS: What facts? She had not contacted us yet. You said it.

BY MS. ROSS:

Q Other than those. Other than that that you claim that she had not contacted you and you claim that she had not presented a return-to-work certificate. Those are the only facts that you rely on to conclude that her employment had ended voluntarily?

A I would say yes. But her employment had not been ended. I have to keep on saying that. We never terminated her. We never ended her employment.

Q Okay. According to this document -- well, a person whose employment is not ended doesn't need a COBRA form, right?

A Yes, they do.

Q Okay. Why do they need COBRA? Why would you notify them of their COBRA rights if their employment is not ending?

A As I said before, if they were not on FMLA. Since the district will no longer pay the employer portion of their insurance, they would need to know that they can still pay the full portion. And our practice has been to send out the COBRA letter informing them that their insurance ends on a certain date, so that they'll know that they would need to come in and pay the full portion of their insurance.

Q But what if the employee had already been coming in and paying the portion of their insurance?

A Well, if the --

MR. HOPSON: Objection. But subject to that, go ahead.

THE WITNESS: If the person, whoever that person is, would be paying, I think we would still document the fact that we notified them of such.

BY MS. ROSS:

Q But this document doesn't say that Ms. Johnson was being extended -- Ms. Gray was being extended COBRA because she had exhausted her FMLA. In fact, that's not even an option on the form of the options listed, right?

A That is correct.

Q I want you to look at what is continuation coverage that is a part of Exhibit 3. And if you would, can you tell me what qualifying event that -- what the qualifying event was that triggered Ms. Gray's COBRA rights?

A For us?

Q Yeah, for the district.

MR. HOPSON: Objection. It's been asked an answered, No. 1. And No. 2, I also object because the document speaks for itself.

MS. ROSS: Well, she can still answer the question, subject to those --

MR. HOPSON: Subject to my objection.

THE WITNESS: What triggered it was that she ran out of FMLA days.

BY MS. ROSS:

Q Okay. Now, do you know that that's not set forth in this document as being a qualifying event, right?

A Right.

MR. HOPSON: Objection. Same objection.

BY MS. ROSS:

Q Okay. If you would, read for the record the first sentence in response to how long will your continuation coverage last.

MR. HOPSON: What page are you referring?

MS. ROSS: I'm referring to page 3 of that document.

THE WITNESS: Okay. And which one? How long?

BY MS. ROSS:

Q Yeah.

A You want me to read that whole thing out loud?

Q No. Just the first sentence.

A "In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of 18 months."

Q Okay. And on the first page where Ms. Gray was given an election, how long did they say her COBRA continuation coverage was going to run?

A February 28th, 2012.

Q From what period?

A Starting August 1, 2011.

Q Would that be an 18-month period?

A I'm not sure. Yes.

Q And it's your testimony that her COBRA --

A Oh, the year is probably done wrong. Yeah, the year is incorrect, but the dates are correct. The years are incorrect.

Q What is incorrect on the document, ma'am?

A The February 28th should have read 2013.

Q And is it your testimony that the loss of coverage in Ms. Gray's case was not due to an end of employment or a reduction in hours of employment?

A The only --

MR. HOPSON: Objection to asked and answered.

BY MS. ROSS:

Q You can answer it.

A The only thing that I've stated is that she was not terminated.

Q Okay. In order to be eligible for COBRA, you have to have a loss of coverage period, correct?

A Her FMLA was exhausted.

Q Okay. So she had no coverage period, right? She was not going to be covered by insurance, according to you?

A Past FMLA, past this date right here (indicating), she would not be, as stated in the letter.

Q Past what date?

A The -- let me see.

MR. HOPSON: You understand the question?

THE WITNESS: I might not be understanding it. But I want to ask for clarity.

MR. HOPSON: Well, ask for clarity. That's your prerogative. I don't know if I understand it. But if you understand it --

THE WITNESS: I don't. Can you ask it again?

BY MS. ROSS:

Q According to you -- let's go back please.

COURT REPORTER: You want me to read it back?

MS. ROSS: Um-hum (affirmative response).

(COURT REPORTER READS BACK.)

BY MS. ROSS:

Q At what period was Ms. Gray not going to be covered by insurance?

A If she did not elect COBRA, continuation coverage would end on July 31st, 2011.

Q Okay. And that was because, according to you, she had exhausted her FMLA?

A She had exhausted her FMLA.

Q And she was inactive?

A She was an inactive employee, yes.

Q Okay. But she was not terminated?

A No, ma'am, she was not terminated.

Q Okay. So what benefits would she have associated with the district? I mean, during this period of time when she's inactive, she's not getting any benefits from the district; is that right?

A I'm not sure. She can extend COBRA. That is a benefit.

Q Okay, so she can extend COBRA. But that comes -- you're saying when you end your employment one way or the other, either you're fired or you voluntarily leave?

A I'm not saying -- I haven't said that.

Q Well, that's what -- okay. You testified earlier that --

A That the inactive --

Q No, no. You testified earlier that y'all offered COBRA to employees who leave the district voluntarily or involuntarily; is that correct?

A That's incomplete.

Q Okay.

A I also said that when an employee exhaust their FMLA, we also extend COBRA.

Q So you're saying you extend COBRA to employees who have exhausted their FMLA?

A If the district is no longer going to pay the employee portion and they are interested in continuing the medical insurance, we notify them that they can assess COBRA, yes, ma'am.

Q So you're telling me that employees -- it would be your testimony to a jury that a

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person who is not coming to work for the district is still an employee of the district? How is that?

MR. HOPSON: Objection. You say "not coming to work"? You mean physically not showing up to work?

BY MS. ROSS:

Q Okay. Under this contract, when was her last day of work?

A Her last day of work would be May 24th.

Q Okay. And so after May 24th, she's not expected to perform any duties for the district?

A That's correct.

Q Okay. So unless she's given another contract, she's not expected to come to the district to perform any duties, correct?

A Yes, correct.

Q Okay. So she does not have a contract with the district during that time?

A She had not been issued one. That's correct.

Q Okay. And you said that you issue contracts to all employees who are returning

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for the next school year, you issue those contracts in May?

A Yes.

Q Okay.

A But we also issue contracts after that date depending. It's on a case to case. If we would receive a release to return to work, we would extend a contract at that time to the employee who brings that certificate.

Q How many nonrenewals did you send out in your first year?

A I don't remember.

Q We know you sent one. You nonrenewed Whitley.

A That's not true. Mr. Whitley just retired this year.

Q I mean before that. You nonrenewed him, remember? You attempted to nonrenew him.

A Well, that didn't happen.

Q Okay.

MR. HOPSON: Let me object to that. That's got nothing to do with this matter. You can ask the question about the number of nonrenewals. If she knows, she can try to answer.

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THE WITNESS: I don't know. Off the top of my head, I don't know that.

BY MS. ROSS:

Q If an employee -- why did you write this letter?

MR. HOPSON: The letter we discussed? This is a letter dated July 29th, 2011 from the superintendent to Ms. Gray. I'm going to object to the use of that letter because it's done after the suit. It was sent after the suit had been filed by Ms. Gray, and it certainly, if anything, deals with any remedial measures the school district took on behalf of --

MS. ROSS: Yes, but we're going to question her about it.

Can we mark this as four? And if we need to get the magistrate judge on the phone, if you've got a phone, we can do that.

MR. HOPSON: I just said I'm making my objection.

MS. ROSS: Okay.

MR. HOPSON: And I've got a continuing objection that will continue any

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discussion about anything to do with this letter or anything that followed-up from the superintendent as a remedial measure that should not be allowed in evidence.

(EXHIBIT NO. 4 MARKED FOR THE RECORD.)

BY MS. ROSS:

Q What is that document (indicating)?

A Did you just ask something? I'm sorry, I didn't hear you.

Q I said, what is that document?

A It's a letter from me to Ms. Celia Gray.

Q Okay. And why did you write that document?

MR. HOPSON: This is the same objection, continuing objection, for the record.

THE WITNESS: We had been made aware of her possible interest in returning to work, but we did not have a return-to-work receipt.

BY MS. ROSS:

Q Okay. And when you say "we had been made aware of that," who is we?

A Well, this time I had been made aware

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of her possible return to work.

Q Okay. So you're not saying now that we had not been made aware?

A This letter -- you're asking me about this letter. This letter is about me. I said I had been made aware.

Q Okay. But then you said that we had been -- Okay. So who is the we that you're talking about?

A I don't know. I don't understand your question.

Q Okay. Well, you said --

A Are you asking me about the letter or in general?

Q No. I'm asking you about what you said. And what you said is that we had not been made aware.

MR. HOPSON: I think she just answered it. We was referring to the school district. But subject to that, go ahead.

BY MS. ROSS:

Q And who within the school district?

A Huh?

Q Who within the school district had been made aware of her interest?

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A Who? I can't pinpoint a person.

Q Okay. Well, who told you?

A I really don't remember if it was --

MR. HOPSON: This is, again, a continuing objection to any discussions concerning any documents, concerning any attempts to remediate this measure.

BY MS. ROSS:

Q You don't remember who told you of Ms. Gray's interest in returning?

A I can't remember if it was HR or who. No, I do not remember exactly who informed me.

Q You did not speak directly to Ms. Gray?

A No.

Q What was told to you about her interest?

A Other than she had an interest to return to work. That's what I was informed.

Q I mean, are you always notified when an employee who's been off on Workers' Comp wants to come back to work?

A Sometimes yes. Sometimes no. It all depends. It's on a case-by-case basis.

Q If a teacher is going online on the

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district's online sites and apply for jobs, would that also indicate an interest to return to work?

MR. HOPSON: Let me object to what a teacher may do. I don't think she's qualified to answer what a teacher may do or what their intent is.

BY MS. ROSS:

Q Yeah, well, if Ms. Gray had gone to the district's site and applied for jobs in June and July of 2011, would that indicate an interest on her part to return to work?

MR. HOPSON: Same objection. But subject to that, you can try to answer it.

THE WITNESS: I will assume if she is applying for jobs, that her interest is to return -- is to work.

BY MS. ROSS:

Q And the interest would be to work for your school district, since that's the district that's offering the jobs. You don't offer jobs for other school districts through your site, right?

A No, just for Vicksburg Warren School District.

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Q Can you identify that document (indicating)?

A Yeah. This is a contract for the 2011-12 school year.

Q Okay. And when was that contract extended?

A It was signed on August 4th, 2011.

Q Who signed it on that date?

A Ms. Celia signed on that day, Ms. Celia Gray. And my signature is also on it.

MS. ROSS: I want to have this marked.

(EXHIBIT NO. 5 MARKED FOR THE RECORD.)

BY MS. ROSS:

Q And what was the contract period?

A For the exact dates, you mean?

Q Yeah.

A For August 2, 2011 through May 24th, 2012.

Q Let me ask you this, Dr. Swinford: If an employee is -- if it appears that an employee is voluntarily terminating their employment with the district, does the district continue to consider that person to be an employee?

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A If a --

Q If a person appears to be voluntarily ending their employment with the district, does the district still consider that person to be an employee?

A Until we receive a letter or resignation, absolutely.

Q Okay. So if an employee never sends a letter of resignation, then the school district will continue to view the employee as an employee?

A As an inactive employee. Yes, ma'am.

Q Okay. What's an inactive employee?

A An employee who is no longer going to work. They might be on medical leave, maternity leave or they might be on military leave, but they're still employees. But they're not working, but they're still considered employees.

Q So they may be on medical leave, pregnancy leave?

A Military leave.

Q Military leave. What other leave?

A I can't think of any more. There might be more. That's just to state a few.

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Q Now, according to the document that you looked at, according to that document, Ms. Gray was no longer on medical leave as of --

A I never saw this document. I also said --

Q Well, I'm not asking you what you saw. I'm asking you about the document. According to that document, she was not on medical leave. Or she was able to return to work on June 6th of 2011?

MR. HOPSON: Let me just make sure that you understand. What you're asking, counsel, is whether or not -- just according to this document, although she disagrees that she received this document on June the 6th, you're just asking that if she did receive it on June 6th, would that indicate her ability to return to work?

MS. ROSS: Yes.

THE WITNESS: This document, that was not received in my office, does indicate that she can return to work June 6th.

BY MS. ROSS:

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Q What documents is a person required to complete to show that they are on medical leave?

A We don't necessarily require documentation. If someone is going out on maternity leave, they might bring something back later on. But to go on leave, nothing really is required up front. Eventually a medical certificate would be required in excess of five days.

Q And Ms. Gray has been absent in excess of five days?

A Yes. She was on Workers' Compensation, so we had received notification from Workers' Comp.

Q According to the district, Ms. Gray was on medical leave because she was out on Worker's Comp?

A Ms. Gray was out on Workers' Comp.

Q Okay. Was the fact that she was on Workers' Comp the reason why you would say -- or was she out on medical leave?

A She was out on Workers' Comp.

Q Okay. So she was not out on medical leave. Remember a minute ago you told me that

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an inactive employee would be an employee who's off on medical leave?

A Or other types of leaves.

Q Okay. Pregnancy leave, military leave. Now you're saying Workers' Comp is a leave, too?

A And I said among other leaves also.

Q Okay. But I'm asking you is Workers' Comp another form of leave?

A I will assume it is.

Q Now, is it or is it not? Because I don't want to go on any assumptions.

MS. ROSS: And you need to direct her now. She's saying "and other leaves." And I'm asking her --

MR. HOPSON: That's what I'm about to clarify. She testified earlier in the deposition that -- I think she said something to the effect that she's got someone in her office that handles those legal issues.

MS. ROSS: This is not a legal issue.

MR. HOPSON: And I think what she's saying is that's to her understanding. Well, basically, I don't think she can be expected to know what --

MS. ROSS: She's trying to be smart and funny. And I don't appreciate it.

MR. HOPSON: I disagree entirely with you that she's trying to be smart and funny.

MS. ROSS: Well, I know she is.

MR. HOPSON: I'm stating that she has testified that she doesn't know all the details of all the laws of Workers' Comp, FMLA, all the things you're talking about. And I think what she's trying to answer to you is, to the best of her knowledge, these are some of the --

MS. ROSS: Well, that's all I want is her knowledge. It's not somebody else's knowledge. And since she said that an employee is considered to be inactive when they're on medical leave, pregnancy leave, military leave and other forms of other leaves, if she contends that Workers' Comp is a leave, that's yes or no, not I assume so.

MR. HOPSON: Well, maybe she can clarify that answer better. But let me

just state again she's not being smart or funny, and that she has testified already that --

MS. ROSS: Well, she's not being smart or funny. I said she's trying to be.

MR. HOPSON: Okay. Or however you want to interpret it. But I think she's testified that other people may know the answer to some of things. She's tried to answer these questions the best that she can. And to the extent that she can answer that question, she'll try to answer it.

BY MS. ROSS:

Q Now, is Workers' Comp a form of leave by which an employee can be considered to be inactive?

A I think so. I'm not sure. I think so, yes. I'm not familiar with Workers' Comp.

Q To your knowledge, was Ms. Gray on medical leave?

A To my knowledge, Ms. Gray was on Workers' Comp.

Q Okay. So to your knowledge, she was not on medical leave?

A To my knowledge, she was on --

MR. HOPSON: Lisa --

MS. ROSS: She can make this simple by answering yes or no. I mean, the question is plain.

MR. HOPSON: Here's what I'm having difficulty with. Do you mean Family Medical Leave Act or do you mean some kind of a sick leave pursuant to the Mississippi codes or statutes?

MS. ROSS: Family Medical Leave Act or whatever she considers to be medical leave. If it's her contention that she was an inactive employee because she was out on medical leave, she should be able to tell me if she was out on medical leave and if that is the thing that made her an inactive employee.

MR. HOPSON: I truly don't think she's trying to be smart or funny about this, Lisa. I mean, I'm listening to the question, and I'm thinking do you mean sick leave pursuant to the statutes or do you mean Family Medical Leave Act or do you mean something else?

MS. ROSS: Whatever she understands medical leave to mean.

MR. HOPSON: And I think she's answered that she was previously, and her testimony was that she had exhausted her FMLA and that she's been out on Workers' Comp now. If there's some other definition of medical leave, I'm going to object to it because that's some conclusion of law that she's not familiar with. But if you're asking one of those things, I think she's already answered those questions.

MS. ROSS: No. But yes or no. Was she on medical leave? Telling me that she was on Workers' Comp leave doesn't tell me if she was on medical leave.

MR. HOPSON: Okay. And what do you define to be medical leave?

MS. ROSS: Whatever she understands medical leave to be. She was the one that came up with the word "medical leave." Lisa Ross didn't.

MR. HOPSON: Okay. And that statement may be pursuant to the answer earlier that --

BY MS. ROSS:

Q Well, what did you mean when you said medical leave?

A FMLA.

Q Okay.

A She exhausted her FMLA.

Q So if she exhausted her FMLA, she could not have been an inactive employee.

A She's inactive.

Q But if she exhausted her FMLA, she wouldn't be -- okay. Well, at the point that she exhaust her FMLA, she becomes an inactive employee?

A Inactive employees, it all depends if they have leave or if they don't have any leave. I believe she had used her leave. And I'm going off the top of my head here. FMLA is 90 days. So she can use those 90 days. Now, she was on Workers' Comp also. That complicates it. And that's why I can't exactly answer because I don't understand Workers' Comp. If I will go only based on FMLA, she was an inactive employee at the point in which she went on FMLA. FMLA is a leave without pay.

Now, in the Vicksburg Warren School District we run FMLA concurrent to a sick leave. So during the days that she had sick leave, she was an active employee of the district. But the day that her regular sick leave, as issued by the district, was exhausted and she remained on FMLA, she became inactive. Inactive means we will not pay the employer portion of her medical insurance. And if she wants to consider staying on the insurance, she would have to pay the entire portion.

I'm not trying to be smart. I don't know which way you were going.

Q So you're saying that she was on Family Medical Leave?

A She exhausted her Family Medical Leave.

Q Okay. When did she exhaust her Family Medical Leave?

A I don't know the date. But the notification went out the days of this document.

Q The days of what document? Let's see. You were pointing to a document. What document?

A Well, the document -- the COBRA notice says that she can start COBRA July 31st. Well, August 1st would be her first day of COBRA, which means her last day of coverage for us would have been July 31st. That doesn't mean that that's the day her FMLA exhausted. Her FMLA could have exhausted before, and that's when it was caught.

Q Okay. And if her FMLA had exhausted before, she would have been paying a portion of her insurance?

A At the point in which FMLA is exhausted, the employees pay of portion of the insurance.

Q Well, she was not on a pregnancy leave, as far as you know?

A She was on Workers' Comp.

Q Okay. She's not on military leave, as far as you know?

A That's correct.

Q Okay. And you say she was on Workers' Comp. What period did she cease to be on Workers' Comp?

A I don't know.

Q Okay. I want to ask you to take a

look at that document (indicating).

A (Complies.)

Q Have you ever seen one of those forms before, ma'am?

A No, ma'am.

Q Okay. What is that? This is a Workers' Compensation Commission Form report that notes that her Workers' Comp payments have you been suspended. And I'll asked you to look down at the bottom of the page, if you would, and tell me what her last pay was for Workers' Compensation.

MR. HOPSON: Before you answer that, let me object to the introduction of that document. We've never seen that. And she's already testified that she's not seen that form before. But she can answer the question based on what you're asking.

THE WITNESS: I can read on the document that it says that her payment of compensation has been suspended and was last paid on 6/8/2011 at the rate of $414.29 per week.

MS. ROSS: I want to have this marked.

(EXHIBIT NO. 6 MARKED FOR THE RECORD.)

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THE WITNESS: You are aware that's not a district form?
BY MS. ROSS:
Q So a minute ago you said when y'all sent Exhibit 3 out, she was on Workers' Comp. Do you recall saying that?
A Um-hum (affirmative response).
Q Now, according to this document, she was not on Workers' Comp on July 11th of 2011, was she?
A That's what it appears.
Q Okay.
A Can I say something for clarity? Because that's not what I said.
MS. ROSS: We can take a break. Let's go off the record.
(A BREAK WAS TAKEN.)
MS. ROSS: No other questions.
EXAMINATION
BY MR. HOPSON:
Q Dr. Swinford, let me ask you a few follow-up questions. You stated at the end of your direct testimony that it appear to you, looking at those documents, that she had been released from the Workers' Compensation Commission or her pay had been suspended from Workers' Comp as of June the 8th of 2011, correct?

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A Correct.
Q You didn't have any record at that time that she had been released from Workers' Comp coverage, did you?
A No.
Q And when was the first notification that you got that she had been released or removed or suspended from Workers' Compensation pay?
A When we got the medical certificate in August.
Q And that was about August the 4th of 2011; is that correct?
A Yes.
Q I want to show you something that is attached as Exhibit G to the Motion of Summary Judgement. This is the Motion for Summary Judgement that was filed on behalf of the school district last week. And do you recognize that document?
A This is this one (indicating). Yes.
Q All right. This is which one?

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A This is the return to work of June.
Q Okay. This is Ms. Gray's return to work?
A Yes.
Q And what's the date of that return to work? What's the date that the doctor allowed her to return to work?
A On 6/6 of 2011.
Q And what was the date that the school district office has having received that return to work?
A August 4th.
Q What year?
A 2011.
Q Okay. Is this the document that you received on August the 4th, 2011 from Ms. Gray?
A Yes. That's has my received. Yes.
Q Okay. And that's the same as the document that's been labeled Exhibit 2 to this deposition, is it not?
A It appears, yes, that it is, yes.
Q Okay. So the document that's labeled as Exhibit 2 to this deposition was actually received by you on August the 4th, 2011, despite the fact that it's dated June the 6th, 2011?

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A That is correct. I didn't see that stamp, so I didn't know if it was the same.
Q All right. So the documents you identified that you had not seen earlier are actually you had seen, but you did not receive it until August the 4th, 2011?
A That's correct.
Q You mentioned earlier in your testimony about FMLA. You mentioned something about 90 days. You've got someone in your office that handles this Workers' Comp and FMLA and all those things for your employees, do you not?
A Yes. And it's actually different. FMLA is handled in one office. Workers' Comp is handled in a different office.
Q All right. And I think you mentioned something about 90 days. Would you agree with me that the days could be something other than 90 days, such as 12 weeks?
A Yes.
Q You're not 100-percent certain of the days for FMLA?
A No, I'm not. I'm estimating it. I'm

estimating it.

Q Okay. And so some of the answers you may give with regard to FMLA or Workers' Comp are just based on your general understanding, correct?

A That's correct.

Q And you, of course, refer to the law as to what the conditions are?

A That's what I go by.

Q All right.

MR. HOPSON: That's all the questions I have.

MS. ROSS: Hold on.

MR. HOPSON: I'd like to make a copy of the release to return to work that's stamped by the school district on August 4th, 2011 as Exhibit 7 to this deposition.

And, Debra, I'll get a copy of that for you.

(EXHIBIT NO. 7 MARKED FOR THE RECORD.)

FURTHER EXAMINATION

BY MS. ROSS:

Q Who gave you the exhibit that you've just been shown that was marked as Exhibit G to the district's Motion for Summary Judgment?

Who gave you that document?

A This one? It was -- I believe it was turned in. I don't know if it was turned in to the school or human resources. I'm not sure where.

Q Okay. You don't know? So you don't know who gave the document to you?

A My human resources department brought it to me. But I don't know who turned it in.

Q Okay.

A If it was turned in directly to her or at the school.

Q Okay. But it was not turned in to you --

A Not to me directly.

Q -- by Ms. Gray? Ms. Gray did not give that document to you?

A Not in my hands, no. No.

Q Okay. Someone else gave you that document?

A Yes. The same day they received it, yes.

MS. ROSS: We're going to go off the record for a moment.

MR. HOPSON: Sure.

(OFF THE RECORD.)

MS. ROSS: No other questions.

(CONCLUDED AT 11:45 A.M.)

***

SIGNATURE OF WITNESS

I, ____________________, do solemnly swear that I have read the foregoing pages and that the same is a true and correct transcript of the testimony given by me at the time and place hereinbefore set forth, with the following corrections:

PAGE:	LINE:	SHOULD READ:	REASON FOR CHANGE
____	____	__________	____________
____	____	__________	____________
____	____	__________	____________
____	____	__________	____________

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(SIGNATURE)

NOTARIZATION

I, ________________, notary public for the State of ________________, __________ County, do hereby certify that ________ ________ personally appeared before me this _____ day of ______________, 2012, at ______________, ______________.

My Commission Expires

________________ ________________

(NOTARY PUBLIC)

CERTIFICATE OF COURT REPORTER

I, Debra A. Williams, CSR, and Notary Public in and for the County of Madison, State of Mississippi, hereby certify that the foregoing pages, and including this page, contain a true and correct transcript of the testimony of the witness, as taken by me at the time and place heretofore stated, and later reduced to typewritten form by computer-aided transcription under my supervision and to the best of my skill and ability.

I further certify that I placed the witness under oath to truthfully answer the questions in this matter under the power vested in me by the State of Mississippi.

I further certify that I am not in the employ of or related to any counsel or party in this matter, and have no interest, monetary or otherwise, in the final outcome of the proceedings.

Witness my signature and seal this the _____ day of ______________________________

____

DEBRA A. WILLIAMS, CSR
My Commission Expires May 12, 2014

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CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between **GRAY CELIA L GUMBS , 580-06-3048** (employee), and the Vicksburg Warren School District (employer) with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) **2010-2011** and shall hold the position of licensed employee.

That the employee will be employed for **187days** during said scholastic year. And that the employee shall be available to perform assigned duties **beginning on 08/02/2010 and ending on 05/24/2011**, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of **$41515.00**, which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

James T. Price
Superintendent

Date

EXHIBIT
PENGAD 800-631-6989
#1
Swinford

Celia L. Gumbs-Gray
Employee

6/01/10
Date

EXHIBIT
PENGAD 800-631-6989
#1
Johnson

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

Mississippi Spine Clinic

971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 6/6 20 11

Celia Gray was seen in our office today. He / She

☒ May return to [✓ work] / school on 6/6 20 11.

☐ Will be re-evaluated for return to work / school at next appointment on:

________ 20 ____

WORK: (May return to the below duties on the below dates.)

Regular duty ________ 20 ____ Light duty ________ 20 ____

RESTRICT: ☒ Lifting to no more than: 40 pounds

☐ Standing/Sitting to no more than: ________ hours

☐ Working to no more than: ________ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ________ 20 ____

COMMENTS: ________

Signature ________

EXHIBIT

#2

Swinford

PENGAD 800-631-6989

State and School Employees' Health Insurance Plan
Continuation Coverage Election Notice

To: Celia Gumbs Gray
Name of Employee or Qualified Beneficiary(ies)

July 11, 2011
Date Notified

This notice contains important information about your right to continue your health care coverage in the State and School Employees' Health Insurance Plan (Plan). Please read the information contained in this notice very carefully.

The American Recovery and Reinvestment Act of 2009 (ARRA), as amended by the Department of Defense Appropriations Act (2010 DOD Act) on December 19, 2009 and the Temporary Extension Act of 2010 (TEA) on March 2, 2010, reduces the COBRA premium in some cases. On April 15, 2010, the President signed into law an extension of unemployment benefits and COBRA premium assistance. You are receiving this election notice because you experienced a loss of coverage that occurred during the period that begins with September 1, 2008 and ends with May 31, 2010 and you may be eligible for the temporary premium reduction for up to 15 months. To help determine whether you can get the ARRA premium reduction, you should read this notice and the attached documents carefully. In particular, reference the "Summary of the COBRA Premium Reduction Provisions under ARRA, as Amended" with details regarding eligibility, restrictions, and obligations and the "Application for Treatment as an Assistance Eligible Individual." **If you believe you meet the criteria for the premium reduction, complete the "Application for Treatment as an Assistance Eligible Individual" and return it with your completed Election Form.**

To elect COBRA continuation coverage, follow the instructions on the following pages to complete the enclosed Election Form and submit it to Blue Cross & Blue Shield of Mississippi.

If you do not elect COBRA continuation coverage, your coverage under the Plan will end on July 31, 2011 due to:

☒ End of employment
  ☐ Involuntary ☒ Voluntary
☐ Divorce or legal separation
☐ Death of employee
☐ Entitlement to Medicare
☐ Reduction in hours of employment
☐ Loss of dependent child status

If you believe you meet the criteria for the premium reduction, complete the "Request for Treatment as an Assistance Eligible Individual" and return it along with this page and your completed Election Form.

Each person ("qualified beneficiary") in the category(ies) checked below is entitled to elect COBRA continuation coverage, which will continue group health care coverage under the Plan for up to 18 months:

☒ Employee or former employee
☐ Spouse or former spouse
☐ Dependent child(ren) covered under the Plan on the day before the event that caused the loss of coverage
☐ Child who is losing coverage under the Plan because he or she is no longer a dependent under the Plan

If elected, COBRA continuation coverage will begin on August 1, 2011 and can last until February 28, 2012. This Election Form must be completed and returned by mail. It must be post-marked no later than September 8, 2011.

EXHIBIT
#3
Swinford
PENGAD 800-631-6989

COBRA Continuation Coverage Election Form

Instructions: To elect COBRA continuation coverage, complete this Election Form and return it to us. Under federal law, you have 60 days after the date of this notice to decide whether you want to elect COBRA continuation coverage under the Plan.

Send completed Election Form to:

Blue Cross & Blue Shield of Mississippi
PO Box 23734
Jackson, MS 39225

This Election Form must be completed and returned by mail. If mailed, it must be post-marked no later than September 8, 2011.

If you do not submit a completed Election Form by the due date shown above, you will lose your right to elect COBRA continuation coverage. If you reject COBRA continuation coverage before the due date, you may change your mind as long as you furnish a completed Election Form before the due date. However, if you change your mind after first rejecting COBRA continuation coverage, your COBRA continuation coverage will begin on the date you furnish the completed Election Form.

I (We) elect COBRA continuation coverage in the State and School Employees' Health Insurance Plan (Plan) as indicated below:

Name	Date of Birth	Relationship to Employee	SSN (or other identifier)
a.			
b.			
c.			
d.			

Signature ____________________ Date ____________________

Print Name ____________________ Relationship to individual(s) listed above ____________________

Print Address ____________________ Telephone number ____________________

IMPORTANT INFORMATION
ABOUT YOUR COBRA CONTINUATION COVERAGE RIGHTS

What is continuation coverage?

Federal law requires that most group health plans (including this Plan) give employees and their families the opportunity to continue their health care coverage when there is a "qualifying event" that would result in a loss of coverage under an employer's plan. Depending on the type of qualifying event, "qualified beneficiaries" can include the employee (or retired employee) covered under the group health plan, the covered employee's spouse, and the dependent children of the covered employee.

Continuation coverage is the same coverage that the Plan gives to other participants or beneficiaries under the Plan who are not receiving continuation coverage. Each qualified beneficiary who elects continuation coverage will have the same rights under the Plan as other participants or beneficiaries covered under the Plan, including open enrollment and special enrollment rights.

How long will continuation coverage last?

In the case of a loss of coverage due to end of employment or reduction in hours of employment, coverage generally may be continued only for up to a total of 18 months. In the case of loss of coverage due to an employee's death, coverage may be continued for up to a total of 36 months. In the case of loss of coverage due to a divorce or legal separation, an employee becoming entitled to Medicare benefits or a dependent child ceasing to be a dependent under the terms of the Plan, coverage may be continued for up to a total of 36 months. When the qualifying event is the end of employment or reduction of the employee's hours of employment, and the employee became entitled to Medicare benefits less than 18 months before the qualifying event, COBRA continuation coverage for qualified beneficiaries other than the employee lasts until 36 months after the date of Medicare entitlement. This notice shows the maximum period of continuation coverage available to the qualified beneficiaries.

Continuation coverage will be terminated before the end of the maximum period if:

- any required premium is not paid in full on time,
- a qualified beneficiary becomes covered, after electing continuation coverage, under another group health plan that does not impose any pre-existing condition exclusion for a pre-existing condition of the qualified beneficiary,
- a covered employee becomes entitled to Medicare benefits (under Part A, Part B, or both) after electing continuation coverage, or
- the employer ceases to provide any group health plan for its employees.

Continuation coverage may also be terminated for any reason the Plan would terminate coverage of participant or beneficiary not receiving continuation coverage (such as fraud).

How can you extend the length of COBRA continuation coverage?

If you elect continuation coverage, an extension of the 18-month period of coverage may be available if a qualified beneficiary is disabled or a second qualifying event occurs. You must notify Blue Cross & Blue Shield of Mississippi (BCBSMS) of a disability or a second qualifying event in order to extend the period of continuation coverage. Failure to provide notice of a disability or second qualifying event may affect the right to extend the period of continuation coverage.

Disability

An 11-month extension of coverage may be available if any of the qualified beneficiaries is determined by the Social Security Administration (SSA) to be disabled. The disability has to have started at some time before the 60th day of COBRA continuation coverage and must last at least until the end of the 18-month period of continuation coverage. You must make sure that BCBSMS is notified of the Social Security Administration's determination within 60 days of the date of the determination and before the end of the 18-month period of COBRA continuation coverage. This notice should be sent to Blue Cross & Blue Shield of Mississippi, P O Box 23734, Jackson, MS 39225. Each qualified beneficiary who has elected continuation coverage will be entitled to the 11-month disability extension if one of them qualifies. If the qualified beneficiary is determined by SSA to no longer be disabled, you must notify the Plan of that fact within 30 days after SSA's determination.

Second Qualifying Event
An 18-month extension of coverage will be available to spouses and dependent children who elect continuation coverage if a second qualifying event occurs during the first 18 months of continuation coverage. The maximum amount of continuation coverage available when a second qualifying event occurs is 36 months. Such second qualifying events may include the death of a covered employee, divorce or separation from the covered employee, the covered employee's becoming entitled to Medicare benefits (under Part A, Part B, or both), or a dependent child ceasing to be eligible for coverage as a dependent under the Plan. These events can be a second qualifying event only if they would have caused the qualified beneficiary to lose coverage under the Plan if the first qualifying event had not occurred. You must notify BCBSMS within 60 days after a second qualifying event occurs if you want to extend your continuation coverage.

How can you elect COBRA continuation coverage?

To elect continuation coverage, you must complete the Election Form and furnish it according to the directions on the form. Each qualified beneficiary has a separate right to elect continuation coverage. For example, the employee's spouse may elect continuation coverage even if the employee does not. Continuation coverage may be elected for only one, several, or for all dependent children who are qualified beneficiaries. A parent may elect to continue coverage on behalf of any dependent children. The employee or the employee's spouse can elect continuation coverage on behalf of all of the qualified beneficiaries.

In considering whether to elect continuation coverage, you should take into account that a failure to continue your group health coverage will affect your future rights under federal law. First, you can lose the right to avoid having pre-existing condition exclusions applied to you by other group health plans if you have more than a 63-day gap in health coverage, and election of continuation coverage may help you not have such a gap. Second, you will lose the guaranteed right to purchase individual health insurance policies that do not impose such pre-existing condition exclusions if you do not get continuation coverage for the maximum time available to you. Finally, you should take into account that you have special enrollment rights under federal law. You have the right to request special enrollment in another group health plan for which you are otherwise eligible (such as a plan sponsored by your spouse's employer) within 30 days after your group health coverage ends because of the qualifying event listed above. You will also have the same special enrollment right at the end of continuation coverage if you get continuation coverage for the maximum time available to you.

How much does COBRA continuation coverage cost?

Each qualified beneficiary is required to pay the entire cost of continuation coverage. The amount a qualified beneficiary is required to pay may not exceed 102 percent (or, in the case of an extension of continuation coverage due to a disability, 150 percent) of the cost to the group health plan (including both employer and employee contributions) for coverage of a similarly situated participant or beneficiary who is not receiving continuation coverage. The required payment for each continuation coverage period for each option is described in this notice.

When and how must payment for COBRA continuation coverage be made?

First payment for continuation coverage
If you elect continuation coverage, you do not have to send any payment with the Election Form. However, you must make your first payment for continuation coverage not later than 45 days after the date of your election. (This is the date the Election Notice is post-marked.) If you do not make your first payment for continuation coverage in full not later than 45 days after the date of your election, you will lose all continuation coverage rights under the Plan. Coverage will not be reinstated until the initial payment is received. This payment must include all premiums due for the coverage period beginning with your COBRA coverage effective date through the current month. You are responsible for making sure that the amount of your first payment is correct. You may contact BCBSMS to confirm the correct amount of your first payment. If you wish to have your monthly premium paid by bank draft, contact BCBSMS at 800-709-7881.

Periodic payments for continuation coverage
After you make your first payment for continuation coverage, you will be required to make periodic payments for each subsequent coverage period. The amount due for each coverage period for each qualified beneficiary is shown in this notice. The periodic payments can be made on a monthly basis. Under the Plan, each of these periodic payments for continuation coverage is due on the first day of the month for that coverage period. If you make a periodic payment on or before the first day of the coverage period to which it applies, your coverage under the Plan will continue for that coverage period without any break. The Plan will send periodic notices of payments due for these coverage periods.

Grace periods for periodic payments
Although periodic payments are due on the dates shown above, you will be given a grace period of 30 days after the first day of the coverage period to make each periodic payment. Your continuation coverage will be provided for each coverage period as long as payment for that coverage period is made before the end of the grace period for that payment.

If you fail to make a periodic payment before the end of the grace period for that coverage period, you will lose all rights to continuation coverage under the Plan. Your first payment and all periodic payments for continuation coverage should be sent to:

Blue Cross & Blue Shield of Mississippi
P O Box 23734
Jackson, MS 39225

MAKE CHECKS/MONEY ORDERS PAYABLE TO: STATE/SCHOOL INSURANCE FUND

NOTE: NSF and other returned checks will be assessed a $30 handling fee and must be satisfied immediately to avoid coverage termination.

For more information
This notice does not fully describe continuation coverage or other rights under the Plan. More information about continuation coverage and your rights under the Plan is available in your *Plan Document*. If you have any questions concerning the information in this notice, your rights to coverage, or if you want a copy of your *Plan Document*, you should contact BCBSMS at 800-709-7881.

For more information about your rights under ERISA, including COBRA, the Health Insurance Portability and Accountability Act (HIPAA), and other laws affecting group health plans, contact the U.S. Department of Labor's Employee Benefits Security Administration (EBSA) in your area or visit the EBSA website at www.dol.gov/ebsa. (Addresses and phone numbers of Regional and District EBSA Offices are available through EBSA's website.)

Keep Blue Cross & Blue Shield Informed of Address Changes
In order to protect your and your family's rights, you should keep the BCBSMS informed of any changes in your address and the addresses of family members. You should also keep a copy, for your records, of any notices you send to BCBSMS.

Vicksburg Warren School District
Post Office Box 820065 1500 Mission 66
Vicksburg, Mississippi 39182/39180
Phone: 601-638-5122
Fax: 601-619-2338

Liz D. Swinford, Ed.D.
Superintendent

Mrs. Debra Hullum
Asst. Superintendent

July 29, 2011

Ms. Celia Gray
2621 Roosevelt Avenue
Vicksburg, MS 39180

Dear Ms. Gray:

I have been made aware of your possible interest to return to work in the Vicksburg Warren School District. As such, I will await the receipt of your certificate to return to work from your physician. At that time, I will inform you of your placement.

Sincerely,

Liz D. Swinford, Ed.D.
Superintendent

EXHIBIT
#4
Swinford
PENGAD 800-631-6989

CONTRACT OF EMPLOYMENT
WITH
MISSISSIPPI PUBLIC SCHOOL DISTRICTS
FOR
FOR ASSISTANT SUPERINTENDENT, PRINCIPAL AND LICENSED EMPLOYEE

This agreement is made and entered into as of the dates indicated below, by and between GRAY, CELIA, 580-06-3048, and the Vicksburg Warren School District (employer), with the employee having been duly elected and approved for employment by the school board of the employer.

This agreement provides:

That the employee will be employed by the employer for the scholastic year(s) 2011-2012 and shall hold the position of licensed employee.

That the employee will be employed for 187 days during said scholastic year. And that the employee shall be available to perform assigned duties beginning on 08/02/2011 and ending on 05/24/2012, or otherwise, as may be amended by the employer due to an emergency or other good cause in accordance with the policies of the employer.

That the employee will perform assigned duties during the school term. And that the school term will consist of 180 days and will commence and end on the dates established in accordance with the policies of the employer.

That the employee agrees to reassignment during the school term to any area for which a valid license is held.

That in consideration for the duties performed under this agreement, the employer agrees to compensate the employee with an annual salary of $42,010.00 , which shall be paid on a basis as determined by the local school board. And that the annual salary is established in accordance with the policies of the employer and is based on an amount from the Adequate Education Program Salary scale for the appropriate license and years of experience of the employee and an amount from the local salary supplement scale of the employer, and/or an amount from the employer as compensation for which other duties are to be performed by the employee. The school district may reduce the employee's state minimum salary by a pro rata daily amount in order to comply with school district employee furlough provisions provided in statute. The payment of such salary is conditioned upon the availability of adequate education funds provided for salaries.

This contract shall be subject to all applicable policies, resolutions, rules and regulations of the employer, the Mississippi Educator Code of Ethics and Standard of Conduct adopted by the state Board of Education, and the laws of the State of Mississippi, copies of which are available from the Superintendent's office.

This contract of employment has been executed in duplicate on the dates indicated as witnessed by the signature of the employee and the duly authorized superintendent.

Swinford
Superintendent

Celia L. Gumbo-Gray
Employee

08/04/2011
Date

08/04/2011
Date

The employer does not discriminate on the basis of sex, race, religion, color, national origin, age or handicap.

NOTE: In accordance with state law, if the employee should arbitrarily and willfully breach this contract and abandon his or her employment without first being released by the school board of the school district, then the school board may recommend to the Mississippi Board of Education that the teaching license of the employee be suspended for a period of one (1) year.

PENGAD 800-631-6989
EXHIBIT
#5
Swinford

PENGAD 800-631-6989
EXHIBIT
#2
Johnson

MISSISSIPPI WORKERS' COMPENSATION COMMISSION

MWCC FILE NO. ____________

Injury Date 08/20/2009

Carrier File No. WC197-741107

Disability Date 08/21/2009

Type of NOTICE: (Click to select)

____ NOTICE OF FIRST PAYMENT OF T.T.D. BENEFITS
____ SUPPLEMENTAL AGREEMENT AS TO COMPENSATION
__X__ NOTICE OF SUSPENSION OF PAYMENT

I. GENERAL INFORMATION (Use Tab key to advance through fields)

Employee Name and Address (Include City, State, and Zip)
Celia Gray
2621 ROOSEVELT AVENUE
VICKSBURG MS 39180-0000

SSN[redacted]-3048

Birth Date 07/23/1964

Insurance Carrier Name and Address (Include City, State, and Zip)
Employers Insurance of Wausau
P O Box 152800
Irving TX 75015

FEIN: ____________

Employer Name and Address (Include City, State, and Zip)
GROVE STREET SCHOOL
1315 GROVE STREET
VICKSBURG MS 39180-0000

FEIN: 64-0744716

Claim Administrator Name and Address (Include City, State, and Zip)

FEIN: ____________

II. NOTICE OF FIRST PAYMENT:

Please take notice that payment of compensation for temporary total disability has begun and will continue until further notice:

Date of First Check: ____________

Average Weekly Wage: $____________

Period Paid From: ____________ to ____________

First Check Amount: ____________

Compensation Rate: $____________

III. SUPPLEMENTAL AGREEMENT:

Please take notice that we agree, subject to applicable statutory limitations, to the following:

☐ **TEMPORARY TOTAL:** Employee again became temporarily totally disabled on ____________, and is now receiving benefits therefore at the rate of $____________ per week and continuing until further notice.

☐ **TEMPORARY PARTIAL:** Employee first became, or again became temporarily partially disabled on ____________, and is now receiving benefits therefore at the rate of 2/3 of the decrease in wage earning capacity and continuing until further notice.

☐ **PERMANENT TOTAL:** Employee is entitled to compensation for permanent total disability commencing on ____________, at the rate of $____________ per week, and continuing for a period of ____________ weeks.

☐ **PERMANENT PARTIAL:** Employee is entitled to compensation for the ____________ % loss of ____________, commencing on ____________, at the rate of $____________ per week, and continuing for a period of ____________ weeks.

☐ **DEATH:** Dependents are entitled to death benefits commencing on ____________, at the combined rate of $____________ per week. Said benefits will continue for the statutorily prescribed period. (Itemize below - attach additional page if necessary).

☐ **OTHER:** ____________

	Death: Name of Beneficiary and Address	Relation	Date of Birth	Weekly Rate
a.				$
b.				$
c.				$
d.				$

EXHIBIT
#6
Swinford
PENGAD 800-631-6989

IV. NOTICE OF SUSPENSION OF PAYMENT:

Please take notice that the payment of compensation has been suspended, and was last paid on 06/08/2011, at the rate of $ 414.29 per week for the following:

☒ TEMPORARY TOTAL ☐ TEMPORARY PARTIAL ☐ PERMANENT TOTAL ☐ PERMANENT PARTIAL ☐ DEATH ☐ OTHER ____________

Reason compensation was suspended: MMI 6/6/2011

Average weekly wage at time of injury was $766.37

Employee returned to work at weekly wage of $766.37

I certify that a copy of this Form has been furnished to the above named employee, beneficiary, or representative on June 14, 2011

Name: Shirletta Kelley Title: CM/kl Phone: (800) 634-1955

MWCC Form B-18 (Revised 7-96)

COPY

RECEIVED
AUG 04 2011
BY:

Mississippi Spine Clinic

971 Lakeland Drive, Suite 950 • Jackson, MS 39216
Phone: (601) 982-7811 • Fax: (601) 982-3346

Date: 6/6 20 11

Celia Gray was seen in our office today. He / She

☒ May return to [✓ work] / school on 6/6 20 11

☐ Will be re-evaluated for return to work / school at next appointment on: ______ 20 ____

WORK: (May return to the below duties on the below dates.)

Regular duty ______ 20 ____ Light duty ______ 20 ____

RESTRICT: ☒ Lifting to no more than: 40 pounds

☐ Standing/Sitting to no more than: ______ hours

☐ Working to no more than: ______ hours

SCHOOL RESTRICTIONS:

☐ None ☐ No Physical Education until ______ 20 ____

COMMENTS: ______

Signature ______

EXHIBIT
#7
Swinford

PENGAD 800-631-6989

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
VICKSBURG DIVISION

CELIA L. GUMBS-GRAY **PLAINTIFF**

VS. **CIVIL ACTION NO. 5:11CV106DCB-JMR**

VICKSBURG WARREN SCHOOL DISTRICT
AND DR. ELIZABETH SWINFORD **DEFENDANT**

MEMORANDUM IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO DISMISS/MOTION FOR SUMMARY JUDGMENT (ORAL ARGUMENTS REQUESTED)

COMES NOW, Plaintiff, Celia L. Gumbs-Gray, (hereinafter "Gray") by and through undersigned counsel, and files this her Memorandum of Authorities in Support of Gray's Opposition to Defendant's Motion to Dismiss/Motion for Summary Judgment filed pursuant to Fed.R.Civ.P. 56. In support of her response, Gray would show to the Court the following, to wit:

INTRODUCTION

The defendants seek shelter from liability arising out of their unlawful termination of Gray in violation of her federally secured due process rights in her one-year contract as a teacher. Under Mississippi law, Gray's contract was automatically renewed each year because she was never notified of a non-renewal during her tenure with the Vicksburg Warren School District. Although the time for non-renewal of teachers had passed, prompting the automatic renewal of

Gray's contract, Gray was told to provide district officials with a return to work slip and to re-apply for employment with the district. After receiving her return to work release from her physician, Gray delivered a copy to the district. Gray also applied for vacant positions within the district. While attempting to meet with district officials about her return to work, Gray was notified through the district's health insurance carrier that Gray had voluntarily left her job with the district.

There is no question that the defendants' conduct ran afoul of the Due Process Clause of the Fourteenth Amendment to the United States Constitution. After reviewing the evidence proffered in this case, this Court will conclude that summary judgment is precluded by the existence of genuine issues of material facts.

STATEMENT OF FACTS

On or about July 30, 2004, Vicksburg/Warren hired Gray to work as a teacher. (*See*, Exhibit A, Deposition of Celia Gray, p. 10). Gray's one-year contract with Vicksburg/Warren was renewed every year thereafter. (*See*, Exhibit B to Celia Gray's deposition, which is attached hereto as Exhibit A). While working as a teacher, Gray was injured on or about August 20, 2009. (*See*, Exhibit A, p. 12, l. 17-25). Gray had to undergo surgery. (*See*, Exhibit A, p. 16, l. 11-13). Gray was off work recuperating from her surgery for the remainder of the school year. (*See*, Exhibit A, p. 21). On or about June 6, 2011, Gray was released to return to work. (*See*, Exhibit A, p. 27, l. 22-25, p. 28, l. 1).

Prior to receiving her Return to Work certificate, Gray made an appointment to see Paula Johnson, assistant superintendent of the Vicksburg/Warren School District. (*See*, Exhibit A, p. 36, l. 2-12. While off on workers' compensation, Gray stayed in touch with school officials. (*See*, Exhibit A, p. 37, l. 4-10). Once Gray received her Return to Work certificate, she attempted to no avail to get in touch with the assistant superintendent. (*See*, Exhibit A, p. 39, l. 1-7). Gray, however, delivered a copy of her Return to Work certificate to school officials. (*See*, Exhibit A, p. 41). Thereafter, Gray received a call from a district official informing her "[i]f I wanted to seek a teaching position in the district, I need to reapply in order to be considered for a teaching position." (*See*, Exhibit A, p. 39, l. 12-20). Gray got her resume together and took it to the district office. (*See*, Exhibit A, p. 40, l. 15-20). Gray also took copies of her resume to the principals at several schools. (*See*, Exhibit A, p. 40, l. 22-25).

On or about July 11, 2011, Gray received notice from the district's insurance carrier that her insurance benefit plan was being terminated because she voluntarily ended her employment with the district. (*See*, Exhibit C, to Celia Gray's Deposition, which is attached hereto as Exhibit A).

Gray was not extended a contract for the 2011-2012 school year until she filed the instant lawsuit.

ARGUMENT

Summary judgment is appropriate only where there is no genuine issue of material fact. F.R.C.P. 56 (c). If the evidence is such that a reasonable jury could return a verdict for the non-moving party, there is a genuine issue of material fact. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 249, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). In the instant case, there are genuine issues of material facts that must be resolved by a jury. Consequently, this Court should deny the defendants' Motion for Summary Judgment.

GRAY'S CONTRACT FOR 2011-2012 WAS AUTOMATICALLY RENEWED SCHOOL

It is elementary in Mississippi that "[a]lthough teachers are employed under contracts that run for only one school year, the Law provides some measure of protection to teachers. It requires those teachers whose contracts are not to be renewed to receive notification of nonrenewal no later than April 8 preceding the beginning of the school year. The purpose of this notification is to permit such teachers ample time to pursue other employment opportunities and the law is clear that, **if the employing school system fails to give timely notice, the affected teacher's contract is deemed to have been automatically renewed**." *Buck v. Lowndes County Sch. Dist.*, 1999 Miss. App. LEXIS 270, *8-9, (boldness added), (citations omitted), citing *Noxubee County Sch. Bd. v. Cannon*, 485 So.2d 302, 304 (Miss. 1986).

In the instant case, it is uncontroverted that Gray did not receive notice of a non-renewal. (*See*, Exhibit B, Deposition of Elizabeth D. Swinford, p. 28-29, p. 38, l. 16-15, p. 39, l. 1-7). (*See also*, the affidavits of , . As such, Gray's contract is deemed to have been automatically renewed. *Desoto County Sch. Bd. v. Garrett*, 508 So.2d 1091, 1094 (Miss. 1987). According to defendants, Gray was offered a contract for employment for the 2011-2012 school year on August 4, 2011 after she provided the district with her return to work certificate.

Under *Buck, Garrett* and their progeny, Gray's contract automatically renewed when the district did not inform her by April 8 that she was being non-renewed. As such, district officials had no right to condition the offer of a contract for the 2011-2012 school year to Gray providing the district with a return to work certificate. While it is true that the district could require Gray to provide a return to work certificate before she was permitted to return to work, Gray had a contract for the 2011-2012 school year.

THE DEFENDANTS DEPRIVED GRAY OF HER PROPERTY INTEREST

'The Due Process Clause of the Fourteenth Amendment provides that 'no State shall … deprive any person of life, liberty, or property, without due process of law.' It is evident from this clear language that the threshold requirement of any due process claim, be it substantive or procedural, is a showing that the government deprived the plaintiff of a liberty or property interest. Absent such a demonstration, no right to due process can accrue." *Pruett v. Dumas*, 914 F.Supp. 133, 137 (N.D. Miss. 1996)

The statute in Mississippi mandates that school districts give teachers notice of non-renewal. *Garrett*, 508 S.2d at 1093. Gray had a protectable property interest in future employment because her contract automatically renewed when the school district failed to give her notice of non-renewal within the time proscribed by law. Cf., *Pruett v. Dumas*, 914 F.Supp. 133, 137 (N.D. Miss. 1996) (district court stated that "the board's representations and conduct had provided Pruett no basis to justify a belief that her contract would be renewed, Pruett did not possess a property interest in continued employment)." In the instant case, the defendants' lack of action to non-renew Gray's contract justified Gray's belief that her contract was automatically renewed for the 2011-2012 school year. Hence, Gray possessed a property interest in continued employment for the 2011-2012 school year.

THE DEFENDANTS DEPRIVED GRAY OF SUBSTANTIVE DUE PROCESS RIGHTS

In *Dumas*, the court stated, "[s]econd, the Due Process Clause contains a substantive component that bars certain arbitrary, wrongful government actions' regardless of the fairness of the procedures used to implement them." 914 F.Supp. at 138. In order for Gray's claim "to fall with the aegis of substantive due process protection, the court would have to find that the board's action was not rationally related to some legitimate governmental interest." Id.

In the case *sub judice*, the defendants' decision to ignore that Gray's contract for the 2011-2012 school year automatically renewed when it failed to non-renew Gray was not rationally related to any legitimate governmental interest. The statutory provisions require a superintendent to give teachers notice if they will not be extended a contract for the upcoming year. Here, the defendants turned a blind eye to Gray's statutory rights and caused her to seek employment when she already had a contract to teach for the 2011-2012 school year.

DEFENDANTS BREACHED GRAY'S CONTRACT

Assuming arguendo that Gray's contract for the 2011-2012 school year automatically renewed, it follows that the defendants deprived Gray of her property interest in continued employment when it informed its insurance carrier that Gray's employment with the district ended "voluntarily' on or about July 11, 2011. *Buck v. Lowndes County Sch. Dist.*, 1999 Miss. App. LEXIS 270, *8-9, *Noxubee County Sch. Bd. v. Cannon*, 485 So.2d 302, 304 (Miss. 1986), *Desoto County Sch. Bd. v. Garrett*, 508 So.2d 1091, 1094 (Miss. 1987).

A plaintiff asserting any breach of contract claim must prove by a preponderance of the evidence: (1). The existence of a valid and binding contract; and 2. That the defendant has broken or breached it. *Business Communs., Inc. v. Banks*, 2012 Miss. LEXIS 310* 9. Under Mississippi jurisprudence, Gray already had a contract with Vicksburg/Warren School District on or July 11, 2011 when district officials notified the district's insurance carrier that Gray had voluntarily ended her employment with the district. The defendant breached the contract when it notified the district's insurance carrier that Gray quit her job even though school officials knew that Gray had not quit and it had failed to non-renew her. In fact, school officials did not offer Gray a contract for 2011-2012 school year until they claim they received an original Return to Work certificate from Gray. Gray testified that she delivered the Return to Work certificate to school officials in June.

Because Gray has raised genuine issues of material fact as to whether the defendants breached her contract, this Court should deny the defendants' Motion for Summary Judgment.

WHEREFORE, PREMISES CONSIDERED, Gray respectfully requests, for the reasons outlined above, that this Court deny the defendants' Motion for Summary Judgment and allow the finders of fact to resolve the genuine issues of material facts that are in dispute in this matter.

Respectfully Submitted, this the 23rd day of July, 2012.

/s Lisa M. Ross
Lisa M. Ross, Esq.
MSB# 9755
P.O. Box 11264
Jackson, MS 39283-1264
(601) 981-7900 (telephone)
(601) 981-7917 (facsimile)

CERTIFICATE OF SERVICE

I, Lisa M. Ross, do hereby certify that I have this date by ECF, forward a true and correct copy of the foregoing Memorandum in Opposition to the Defendant's Motion for Summary Judgment:

W. Briggs Hopson, III
Teller, Hassell & Hopson, LLP
1201 Cherry Street – Nogales Building
Vicksburg, MS 39183

SO CERTIFIED, this the 23rd day of July, 2012.

/s Lisa M. Ross
Lisa M. Ross

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

CELIA L. GUMBS-GRAY PLAINTIFF

vs. CAUSE NO. 5:11-cv-106-DCB-JMR

VICKSBURG WARREN SCHOOL DISTRICT
and DR. ELIZABETH SWINFORD DEFENDANTS

ORDER OF DISMISSAL

The parties having agreed to and announced to the Court a settlement of this case, and the Court being advised that all parties have an informed understanding of their rights and a full appreciation of the consequences of the settlement, and the Court being desirous that this matter be finally closed on its docket.

IT IS, THEREFORE, ORDERED that this case is hereby dismissed with prejudice as to all parties. If any party fails to comply with the terms of this settlement agreed to by all parties, any aggrieved party may move to reopen the case for enforcement of the settlement agreement, and if successful, all additional attorneys' fees and costs from this date shall be awarded to such aggrieved party or parties against the party failing to comply with the agreement. The Court specifically retains jurisdiction to enforce the settlement agreement.

SO ORDERED, this the 11th day of September, 2012.

s/David Bramlette
UNITED STATES DISTRICT JUDGE